Doing Business in Mongolia: 2013 Country Commercial Guide for U.S. Companies

Return to table of contents

Chapter 1: Doing Business In Mongolia

Market Overview Return to top

Prospects for 2013-2014: Mongolia's economic challenge remains managing its mineral resources to ensure steady growth through the chronic boom and bust cycles that are likely to visit this resource-dependent economy. Increased metal exports and mine-development may not be a boon for the entire economy, if they only lead to continued dependence on the volatile commodities sector. Since 2010, Mongolia has experienced double digit GDP growth led by higher commodity prices for copper, gold, zinc, coal, and other minerals, spurred by steady demand from Mongolia's chief trading partner China, along with capital inflows accompanying the buildup of the Oyu Tolgoi (OT) copper-gold project. GDP grew by a blistering 17.3% in 2011, falling back to 12.3% growth in 2012. While growth seems set to continue in 2013, its rate may ease somewhat: Estimates range from 13% down to 2%. Two factors will affect GDP growth and economic expansion. First, China's economic slowdown and the global drop in some commodity prices continue to drag on Mongolia's nascent mining industry. This slowdown is expected to continue through 2013 and perhaps through the first half of 2014. Second, the Mongolian government's commercial and economic policy making and implementation have impeded the development of its mineral resources. In an effort to ensure that mining benefits the public, the Government of Mongolia (GOM) has adopted or is in the process of passing controversial legislation that weakens investor security and control over investments. Improvement of the Chinese demand for Mongolian commodities notwithstanding, it will take time for Mongolia to recover from the economic impacts of problematic GOM government policies on growth. These new laws and regulations affect not only mining projects but also the infrastructure and power projects needed to move the economy forward. Long-delayed by lack of political consensus, essential projects, which may double or treble Mongolia's current USD 10 billion GDP (2012), need to move to the construction phase. Without progress, Mongolia will face significant challenges from competitors, who also seek to become low-cost producers of similar commodities.

- **Political Situation:** Mongolia has held twelve presidential and parliamentary elections in the past twenty years, during which power changed political hands peacefully, with the exception of some rioting in the aftermath of the disputed 2008 parliamentary elections. Concerns that this political turbulence would continue to vex Mongolia were put to rest by subsequent peaceful elections in 2009, 2012 and 2013. In 2012, the Democratic Party (DP) unseated the long-ruling Mongolian People's Party (MPP), the much evolved successor of the Communist Party, and entered into a coalition with smaller parties to work on key economic and fiscal issues. The coalition, an unwieldy amalgamation of resource nationalists, free-marketers, and traditional socialists, struggles to develop consensus on key policies but shows few signs of breaking apart through the remainder of 2013. But these political changes in 2012 and 2013 have disrupted the administrative apparatus, and generated some uncertainly in the local business environment.

- **Mongolian-U.S. Relations:** Mongolia calls the U.S. its "third neighbor" to balance relations with China and Russia. Good Mongolian-U.S. relations have developed rapidly to include humanitarian and technical assistance, military to military relations, business development, and a host of smaller programs. Mongolia has contributed peacekeeping forces to both Iraq and Afghanistan as well as to UN peace-keeping operations, including in Sierra Leone and Kosovo, Chad, and South Sudan. Aid programs reached a high point with the signing of the 2008 Millennium Challenge Compact for five-year USD 288 million grant for vocational education, health, land registration, infrastructure, and energy projects. The next phase of U.S. Mongolia relations will occur in the commercial realm (business to business), as both nations seek to promote the bi-lateral trade relationship. In 2005 Mongolia successfully hosted the Speaker of the U.S. House of Representatives, the Secretary of Defense, the Secretary of State, and President of the United States George W. Bush. In 2009, the John Boehner, then Minority Leader in the U.S. House of Representatives, visited Mongolia; and Mongolian officials routinely meet with senior Cabinet officials when visiting Washington, D.C. Vice President of the United States Joseph Biden visited Mongolia in 2011; U.S. Secretary of State Hillary Clinton came to Mongolia in 2012. Over the past decade, we record no incidents of anti-American sentiment or politically motivated damage to American projects or installations.

- **Russo-Sino-Mongolian Relations:** Relations with Russia and China are critical because Mongolia depends on both for power, petroleum and transportation. Sour relations among these neighbors invariably affects Mongolia's business environment. When the Dalai Lama visited in spring 2003, the Chinese temporarily halted all commercial rail shipments for "technical reasons." China seeks access to Mongolia's mineral and hydrocarbon resources, and remains the leading investor and customer in these fields. Aggressively re-asserting its claims to regional leadership, Russia has responded to Mongolia's growing ties with both China and "third neighbors" with robust attempts to limit the influence of the others.

Market Challenges

Return to top

- Weak rule of law.
- Corruption in the bureaucracy and legislature.
- Ignorance of best commercial practices in the government and private sectors
- Lack of transparency in regulatory and legislative processes.
- Some abuse of inspection, permitting, and licensing regimes to protect existing state and private interests.
- Insufficient infrastructure in both rural and urban sectors.

Market Opportunities

Return to top

- **Mining:** Over 6,000 deposits of approximately 80 minerals exist in Mongolia, among them coal, copper, uranium, rare earth oxides, iron ore, oil, tungsten, molybdenum and fluorspar. Of particular note are Mongolia's excellent metallurgic coal deposits. Mongolia's location next to China provides a ready market for Mongolia's mineral wealth. As with all industrial sectors in Mongolia, the developing infrastructure, statutory, and regulatory environments remain a concern.

- **Construction:** The population of the Mongolian capital, Ulaanbaatar, has more than tripled in the last decade years from 450,000 to over a 1.2 million. Quality commercial and residential stock remains in short supply and demand shows no signs of slacking, despite recent construction booms.

- **Meat Processing:** Mongolia has vast herds of sheep and cattle, and hungry neighbors. Satisfying demand in Russia, China, Korea, and Japan offers an opportunity to American ranchers and meat processing and marketing technologies. However, quotas and restrictive health regulations inhibit the meat trade between Mongolian and her neighbors. Existing Mongolian processing facilities require upgrading to increase production capacity, quality, and sanitation.

Market Entry Strategy Return to top

- **Personal Relations Key:** Mongolians like to deal with *old friends.* Investors must establish and maintain close relationships with Mongolian counterparts and relevant government agencies. Family and school ties remain strong in Mongolia. Learn who is related to whom, who studied with whom, and who is married into which family when establishing business connections.
- **Use of Agents:** Find a Mongolian advisor to guide through the ins and outs of local customs and business practices.
- **Structure of ownership:** The *Foreign Investment Law* of Mongolia does not require foreign investors to have a Mongolian partner. All investment may be 100% foreign-owned and operated (with the exception of land ownership). (Note: The 2012 *Strategic Entities Foreign Investment Law* (SEFIL) requires GOM approval of the amount and nature of investments by foreign entities in the Mining, Banking, and Media sectors.)
- **Product Pricing:** Sensitive to price, Mongolian consumers will choose the less expensive product--unless swayed by after-sales service or clear product superiority. They perceive American-branded goods as superior to others, and will more often than not pay a premium to avoid purchasing lower cost, lower quality items.

Return to table of contents

Return to table of contents

Chapter 2: Political and Economic Environment

For background information on the political and economic environment of the country, please click on the link below to the U.S. Department of State Background Notes:

- http://www.state.gov/r/pa/ei/bgn/2779.htm

Return to table of contents

Return to table of contents

Chapter 3: Selling U.S. Products and Services

Using an Agent or Distributor Return to top

Distributors or agents handling internal distribution and marketing represent many U.S. companies in Mongolia. The U.S. Embassy in Ulaanbaatar can help US exporters find appropriate sales agents in Mongolia. An Embassy-assisted distributor search can help gauge interest in your product and begin the process of finding a suitable representative. Visiting a trade show or an International conference/forum in Mongolia is also a good occasion to review local businesses and to meet with potential partners.

Establishing an Office Return to top

For both joint ventures and sole proprietorships, the business registration process begins at the Foreign Investment and Foreign Registration Department of the Ministry of Economic Development (FIRRD: http://www.investmongolia.com). Mongolian law sets a minimum level for foreign investment into Mongolia of USD 100,000 and requires FIRRD to register all foreign-invested ventures. For joint ventures, the foreign and Mongolian companies file an application and a joint venture agreement. A foreign-owned company submits information on its activities along with the application letter.

Joint ventures must register the company name with the State Registration Office of the General Department of State Taxation to insure no two companies have the same name.

To become a legal entity in Mongolia, the company must receive final approval from the General Department of State Taxation. The Department registers the business entity and makes the registration public. The General Department of State Taxation requires a US$10 filing fee and the following documents from investors:

- The agreement and charter signed by all parties involved in the venture.
- The certificate of approval from FIRRD.
- A notarized schedule showing the equity share held by each partner.
- The account numbers of Tugrik and hard currency accounts in a local bank to be used by the venture.
- A copy of the foreign company representative's passport.
- A certificate showing the amount of capital held by the foreign company in its home country.
- A certificate of approval from the local administration where the venture will be based in Mongolia.

Applicants may need additional documents and (or) pay additional fees on a case-by-case basis.

The following fees apply for FIRRD services paid to the Chingeltei District Tax office:

1. Opening of branch, representative's office and unit – 1 100 000Tg (USD 765).
2. Extension of branch, representative's office and unit – 750 000Tg (USD 521).
3. Establishing foreign invested entity – 750 000Tg (USD 521).
4. Extension of certificate – 75 000Tg (USD 52).
5. Change of certificate – 1,650,00Tg (USD 1,150).
6. Registering change in contract and by-law of branch, representative's office and unit – 35 000Tg (USD 30).

The following payments are paid to the Ministry of Economic Development:

1. New ID – 20 000Tg (USD 14)
2. Extension of ID – 10 000Tg (USD 7)
3. Lost ID – 50 000Tg (USD 3.50)

Strategic Entities Foreign Investment Law of 2012 (SEFIL)

SEFIL requires foreign direct investors to seek approval from various branches of the GOM as precondition for investing in select sectors of strategic importance. These sectors include (i) mineral and metal resources (and perhaps hydrocarbon resources); (ii) banking and finance; and (iii) media and communications. In addition to requiring approval, SEFIL also imposes business practice and process obligations on both foreign state-owned and private investors active in Mongolia on a case by case basis. For a fuller discussion of SEFIL, see Chapter 6.

Franchising Return to top

The first half of 2013 has seen several U.S. franchises penetrate the Mongolian market: Coffee Bean and Tea Leaf, Cinnabon, Round Table Pizza, and KFC. Several other food franchises are in the process of opening in Mongolia. Of Mongolia's 2.9 million people, over 60% live in the Mongolia's three major urban areas. Ulaanbaatar (UB) has over 1.2 million people. UB is the key market and economic engine in Mongolia. With such a concentrated populace, investors need no far-flung network to tap the market.

American products have an excellent reputation; and, generally find Mongolia an excellent fit. Mongolia is a very youthful country. Over 81% of Mongolia's 2.9 million are under 40. Approximately 76% are under 35 years. Flexible, open to new products, services, and ideas, Mongolians like American brands. Most city dwellers have radios, TVs or most likely both. Newspapers are cheap and billboards abound.

Mongolians appreciate quality and will pay for it. Personal appearance and lifestyle count for much in Mongolia. People are conscious of where they shop, how they communicate, what they wear, what they eat, and what they drive. Mongolians will pay to convey the *right* message and to own the *right* product. American products are often *the right product*.

Mongolian disposable income is increasing. Although the government estimates the minimum monthly wage at 144,000 Tugriks or about USD107, official figures do not capture actual economic capacity. 2012 estimates put annual per capita GDP of USD 5,400 on a purchasing power parity basis. In addition, to formal jobs, many Mongolians earn hundreds of dollars a month through gray market activities, and foreign remittances bring in hundreds if not thousands of dollars for some Mongolian families. A best guess puts the effective number willing and able to pay for American goods and services on a regular basis somewhere between 600-800 thousand people.

The ongoing success of the first franchise entrants into the Mongolian market shows that Mongols will buy American franchise products—even given the availability of cheaper competition. Most of these cheap products are of demonstratively lower quality. So if there is a quality alternative and the price differentials are reasonable, franchisors and their franchisees seem to be succeeding.

The Foreign Investment Law of Mongolia identifies franchising as a potential foreign investment category; therefore, entitled to the same status as any other foreign investment under current Mongolian law.

Direct Marketing Return to top

While individual firms may send employees out into the field to post bills and shove sales literature under doors or send text messages to cellular service customers advertising new products, there is no coherent system of direct marketing currently available in Mongolia. In-house experience at advertising firms is evolving and a limited specialized expertise as become available for hire.

Joint Ventures/Licensing Return to top

Investors should note that the Foreign Investment Law of Mongolia does not require foreign investors to have a Mongolian joint venture partner. Businesses may be 100% foreign-owned and operated. (Note: The 2012 *Strategic Entities Foreign Investment Law* (SEFIL) requires government of Mongolia approval of amount and nature of investments by foreign entities in the mining, banking, and media sectors. For a fuller discussion of SEFIL, see Chapter 6.

Selling to the Government [Return to top]

Donors have helped Mongolia bring its procurement practices in line with open and competitive bidding. Mongolia adopted a new public procurement law in 1999 making the process more transparent. Most tenders now follow World Bank procurement policies. The government's procurement code generally conforms to World Trade Organization standards. However, oversight of the process remains weak and inconsistent, leading to irregularities in the process.

Distribution and Sales Channels [Return to top]

Most products enter and exit Mongolia through four main ports of entry/exit:

- Zamyn-Uud, along a spur of the Trans-Siberian Railroad and a north-south road terminating at Mongolia's south-eastern border with China.
- Sukhbaatar City, along a spur of the Trans-Siberian Railroad at Mongolia's north-central border with Russia.
- Tsagaan Nuur, along Mongolia's north-western border with Russia.
- Yarant, along the Mongolia's south-western border with China's Xinjiang Province.

Zamiin-Uud is the most important of the four, and through it passes most of Mongolia's imports and exports, as well as many key Russian commodities—petroleum products, wood, copper, etc. bound for the Chinese market.

Products enter Zamiin-Uud or Sukhbaatar by rail, truck, or car. Products leaving Mongolia by rail are usually inspected at Mongolian Customs Authority (MCA) warehouses in UB before being sent south or north. Products entering Mongolia by rail are usually routed un-opened to UB for Customs inspections at the MCA warehouses. From UB, products are then distributed throughout the city and country. Increasingly, heavy equipment bound for Gobi mining sites clears customs in Zamiin-Uud for more direct shipment to the mine sites.

Products entering Mongolia by truck or auto are inspected at the border crossing points. In most cases, these are small traders bringing in limited quantities of food and dry goods for direct sale in rural Mongolia.

Products bound for sale in UB and in other Mongolian cities are trucked from Customs facilities to wholesale and retail outlets dispersed through the cities. Distribution of products to rural Mongolia is usually accomplished by small retailers who travel to urban centers in the Mongolian countryside by rented truck or auto. They purchase goods at local wholesale venues and bear the expense of transport back to their own retail outlets.

Currently, distribution of perishable livestock and organic products both in and out of Mongolia is hindered by the limited availability of refrigerated shipping facilities and infrastructure bottlenecks at ports of entry and along the shipping lines.

Selling Factors/Techniques Return to top

- Personal relationships in business are critical. The Mongolians like to deal with *old friends.* Exporters, importers, and investors must establish and maintain close relationships with their Mongolian counterparts and relevant government agencies. Equally important, American exporters should encourage strong personal relationships between their Mongolian agents or distributors and the buyers and end-users. A web of strong personal relationships can smooth development of business in Mongolia.

- Family and school ties are still very strong in Mongolia. It is important to learn who is related to whom when establishing business connections.

- Initial contacts with Mongolians can be in English, but it always helps to be accompanied by an interpreter at the start of any relationship. Mongolians look for cues of serious intent by how much effort—time and material—a foreign investor puts in the early phases.

- It is always a mistaken tendency to see Mongolians through the prism of their neighbors. That is, thinking that Mongolians are like the Chinese or the Russians or the Koreans, etc. While both historical and cultural ties exist between Mongolia and her neighbors, Mongolians are very conscious and proud of their history and the progress of their country over the last decades. They become offended if confused with China and deeply resent being compared to other developing countries with similar commodity-dependent economies—especially those from Africa. They prefer to be compared to former East-Bloc nations, such as Poland, Kazakhstan, Ukraine, the Czech Republic, etc.

- Promotional materials can be in English; but preparing a basic information sheet or packet in Mongolian is appreciated. Avoid Chinese language materials, as many Mongolians, rightly or wrongly, associate China with poor quality products.

- Avoid letting cultural sensitivity to Mongolian norms of doing business affect good judgment and common sense. Some Mongolians tell investors that Mongolian customs preclude using best commercial practices and adherence to laws and regulations, insisting that an attractive deal *will* go through if these are ignored. We advise investors to politely but firmly decline such proposals and adhere to sound business principles and practices. Investors who do so will earn the respect of the Mongolians and may protect their investment over the long term.

Electronic Commerce Return to top

While computers and computing have taken Mongolian by storm, E-Commerce has yet to blossom. Although UB consumer demand for E-services has grown along with size of the market, a lack of faith in the security of Mongolian ISPs and public networks continues to hobble wide scale adoption outside of banking sector applications. However, these assumptions remain perceptions rather than proven realities, because no formal market survey of the demand and ability of the consumers to pay for E-Services has been conducted.

Trade Promotion and Advertising

Return to top

Advertising is an effective way to create product awareness among potential consumers in Mongolia. Newspapers and magazines, radio, cell phones, television and billboard displays, and sports and entertainment sponsorships are mass advertising venues. Almost every household in UB—over 50% of Mongolia's consumer market—has both a TV and a radio. In addition, most of Mongolians own or have access to cellular phones and service has become available in almost every part of the country, allowing advertisement by phone to reach all but the most remote corners. There are many advertising companies in Mongolia. The Mongolian Chamber of Commerce and Industry holds annual spring and autumn trade shows with participants from around Mongolia, Russia, China and Korea.

Two caveats about advertising:

1. In the US companies can deduct the cost of advertising as a legitimate business expense. In Mongolia deduction of advertising costs is limited to 5% of the gross profit—no matter how much a company spends on advertising.

2. The *Law on Advertising of Mongolia* restricts the types of information that may be presented. For example, advertisers must not *tarnish* the honor of Mongolia, promote alcohol or tobacco products, or directly compare products in their ads.

These issues aside, Mongolians have taken to advertising in a big way. Both buyers and sellers appreciate the value of advertising and are completely open to just about every method of providing information on products.

Major newspapers and business magazines:

Business Times - a monthly business paper, in Mongolian, published by the Mongolian Chamber of Commerce and Industry

http://www.mongolchamber.mn/en/index.php/publications/business-times-newspaper

Brand—a monthly business magazine

Mongol Messenger - weekly English language paper published by the Mongolian news agency www.mongolmessenger.mn

MONTSAME (the Mongolian national news agency) www.montsame.mn

Mongolyn Medee - (News of Mongolia) Genco

Odriin Sonin - (Daily News) daily newspaper www.dailynews.mn

UB Post - weekly English-language newspaper published by Mongol News Group www.ubpost.mongolnews.mn.

Unoodor - (Today) independent daily newspaper published by Mongol News Group www.mongolnews.mn

Zuuny Medee - (Century News) daily newspaper www.zuuniimedee.mn

Ardyn Erkh

Undesnii Shuudan

Uls turiin toim

Ogloonii sonin-

Unen -

Ardchilal

Television stations include:

MNB - State-owned broadcaster

Channel 25

Mongol TV

RGB

UBS - (Ulaanbaatar Broadcasting System)

TV-5

TV-9

TM – private television station

TV8 - private television station

NTV

C1

Ekh oron

SBNEagle TV ETV

MNC

Pricing Return to top

Sensitive to price, Mongolian consumers generally will choose the less expensive product—but can be swayed by after-sales service or clear product superiority. Mongolians prefer to buy the best quality they can. They perceive American- branded goods as superior to all others; and will, more often than not, pay a premium to avoid purchasing lower quality items.

Sales Service/Customer Support

Return to top

Mongolian custom, law, and regulation are evolving in the area of sales service and customer support. Mongolian customers and businesses continue to explore the sets of services and practices that constitute an even basic support package for sales and customer support. In addition, Mongolians have not fully embraced—but no longer reject out of hand—the concept that after-sales service and support is worth the upfront higher costs they might incur by buying more expensive US products rather than cheaper Chinese or Russian-made ones.

Education about the value of after-sales service and experience with failed equipment has turned the corner for some American product lines in the heavy equipment sector. Currently, firms selling electronic equipment, autos, and mining equipment and tools pursue a variety of options. Generally, approaches based on best sales service and customer support practices used by well-known Western and Japanese firms have found favor among many Mongolians. Companies that follow such practices are perceived of as better and more reliable.

Protecting Your Intellectual Property

Return to top

Mongolia supports intellectual property rights in general and has protected American rights in particular. It has joined the World Intellectual Property Organization (WIPO); signed and ratified most treaties and conventions, including the WTO TRIPS agreement. The WIPO Internet treaties have been signed but remain un-ratified by the State Great Hural, Mongolia's Parliament. However, even if a convention is un-ratified, the Mongolian government and its intellectual property rights enforcer, the Intellectual Property Office of Mongolia (IPOM), make a good faith effort to honor these agreements. For more information on IPR services provided by the IPOM go to http://www.ipom.mn/.

Protecting Your Intellectual Property in Mongolia:

Several general principles are important for effective management of intellectual property ("IP") rights in Mongolia. First, it is important to have an overall strategy to protect your IP. Second, IP is protected differently in Mongolia than in the U.S. Third, rights must be registered and enforced in Mongolia, under local laws. Your U.S. trademark and patent registrations will not protect you in Mongolia. There is no such thing as an "international copyright" that will automatically protect an author's writings throughout the entire world. Protection against unauthorized use in a particular country depends, basically, on the national laws of that country. However, most countries do offer copyright protection to foreign works under certain conditions, and these conditions have been greatly simplified by international copyright treaties and conventions.

Registration of patents and trademarks is on a first-in-time, first-in-right basis, so you should consider applying for trademark and patent protection even before selling your products or services in the Mongolian market. It is vital that companies understand that intellectual property is primarily a private right and that the US government generally cannot enforce rights for private individuals in Mongolia. It is the responsibility of the rights' holders to register, protect, and enforce their rights where relevant, retaining their own counsel and advisors. Companies may wish to seek advice from local attorneys or

IP consultants who are experts in Mongolian law. The U.S. Embassy can provide a list of local lawyers upon request at http://mongolia.usembassy.gov/lawyer_list.html.

While the U.S. Government stands ready to assist, there is little we can do if the rights holders have not taken these fundamental steps necessary to securing and enforcing their IP in a timely fashion. Moreover, in many countries, rights holders who delay enforcing their rights on a mistaken belief that the USG can provide a political resolution to a legal problem may find that their rights have been eroded or abrogated due to legal doctrines such as statutes of limitations, laches, estoppels, or unreasonable delay in prosecuting a law suit. In no instance should U.S. Government advice be seen as a substitute for the obligation of a rights holder to promptly pursue its case.

It is always advisable to conduct due diligence on potential partners. Negotiate from the position of your partner and give your partner clear incentives to honor the contract. A good partner is an important ally in protecting IP rights. Consider carefully, however, whether to permit your partner to register your IP rights on your behalf. Doing so may create a risk that your. Keep an eye on your cost structure and reduce the margins (and the incentive) of would-be bad actors. Projects and sales in Mongolia require constant attention. Work with legal counsel familiar with Mongolian laws to create a solid contract that includes non-compete clauses, and confidentiality/non-disclosure provisions.

It is also recommended that small and medium-size companies understand the importance of working together with trade associations and organizations to support efforts to protect IP and stop counterfeiting. There are a number of these organizations, both Mongolian or U.S.-based. These include:

- The U.S. Chamber and local American Chambers of Commerce
- National Association of Manufacturers (NAM)
- International Intellectual Property Alliance (IIPA)
- International Trademark Association (INTA)
- The Coalition Against Counterfeiting and Piracy
- International Anti-Counterfeiting Coalition (IACC)
- Pharmaceutical Research and Manufacturers of America (PhRMA)
- Biotechnology Industry Organization (BIO)
- Intellectual Property Office of Mongolia (IPOM)

IP Resources

A wealth of information on protecting IP is freely available to U.S. rights holders. Some excellent resources for companies regarding intellectual property include the following:

- For information about patent, trademark, or copyright issues -- including enforcement issues in the US and other countries -- call the STOP! Hotline: **1-866-999-HALT** or register at **www.StopFakes.gov**.

- For more information about registering trademarks and patents (both in the U.S. as well as in foreign countries), contact the US Patent and Trademark Office (USPTO) at: **1-800-786-9199**.

- For more information about registering for copyright protection in the US, contact the US Copyright Office at: **1-202-707-5959**.

- For more information about how to evaluate, protect, and enforce intellectual property rights and how these rights may be important for businesses, a free online training program is available at www.stopfakes.gov.

- For US small and medium-size companies, the Department of Commerce offers a "SME IP Advisory Program" available through the American Bar Association that provides one hour of free IP legal advice for companies with concerns in Brazil, China, Egypt, India, Russia, and . For details and to register, visit: **http://www.abanet.org/intlaw/intlproj/iprprogram_consultation.html**

- For information on obtaining and enforcing intellectual property rights and market-specific IP Toolkits visit: **www.StopFakes.gov** This site is linked to the USPTO website for registering trademarks and patents (both in the U.S. as well as in foreign countries), the U.S. Customs & Border Protection website to record registered trademarks and copyrighted works (to assist customs in blocking imports of IP-infringing products) and allows you to register for Webinars on protecting IP.

- The U.S. Commerce Department has positioned IP attachés in key markets around the world. You can get contact information for the IP attaché who covers Mongolia at richmondmd@state.gov.

Due Diligence Return to top

Conducting proper due diligence in Mongolia remains difficult. While several international accounting and law firms maintain permanent presences in Mongolia, recent changes to the laws on auditing and the legal practice will soon limit the domestic scope of what foreign entities can provide; and most domestic local accounting and legal firms lack the professional experience and knowledge of international best practices.

The U.S. Embassy in Ulaanbaatar can assist by providing such verifiable non-confidential and proprietary information on both reputations and actions of firms and individuals active in Mongolia as circumstances allow.

Local Professional Services Return to top

Licensing technologies, opening representative offices, or establishing subsidiaries in Mongolia involve tax and other laws as well as questions on business practices that may best be addressed by attorneys and accountants familiar with Mongolian requirements.

Attorneys: Several US firms or US-Mongolian firms operate in Mongolia, in addition to competent Mongolian firms. You can find a complete list on the US Embassy website: http://mongolia.usembassy.gov,or contact the US Embassy at richmondmd@state.gov.

Web Resources Return to top

Mongolian Resources

Business Council of Mongolia: www.bcm.org

Embassy of Mongolia, Washington, DC: http://www.mongolianembassy.us

Foreign Investment Regulation and Registration Department: http://www.investmongolia.com/

Government of Mongolia: http://www.pmis.gov.mn

Intellectual Property Office: http://www.ipom.mn/

Mineral Resources and Petroleum Authority of Mongolia: http://www.mram.mn

Mongol Chamber of Commerce and Industry: http://www.mongolchamber.mn/en/

Parliament of Mongolia: www.parl.gov.mn

U. S. Embassy Resources

Senior Commercial Specialist: richmondmd@state.gov

U.S. Embassy, Ulaanbaatar: http://mongolia.usembassy.gov

U.S. Department of Commerce: http://www.commerce.gov/

U.S. Export-Import Bank: http://www.exim.gov/

U.S. International Trade Administration: http://www.trade.gov/

U.S. Department of State: http://www.state.gov/

U.S. Overseas Private Investment Corporations: http://www.opic.gov

U.S. Trade and Development Agency: http://www.ustda.gov

Return to table of contents

Chapter 4: Leading Sectors for U.S. Export and Investment

Commercial Sectors

Mining

Overview

Return to top

	2011	2012
Total Market Size	1,840,641.5	1,915,434.9
Total Local Production	1,761,829.5	1,598,417.6
Total Exports	1,451,000	1,563,000
Total Imports	1,529,812	1,880,017
Imports from the U.S.	64,898	79,799
Exchange Rate: 1 USD	1265.5	1357.5

Unit: USD thousands

Plentiful mineral endowments, proximity to strong markets in Asia, and general political stability make investing in and selling U.S. mining equipment and services to Mongolia's mining sector potentially promising activities. This promise is manifest in the strong growth: inward FDI in the geological prospecting, oil exploration, and mining sectors has increased from USD 336 million in 2007 to USD 2.2 billion in 2012—an increase of 85% in just 4 years. At 73% of total inward FDI in 2012, the mining sector comprises the majority of investment in Mongolia, up from 67% in 2007 but down from a peak of 82% in 2011. In particular, two prospective projects represent the promise of Mongolia's mining sector: The Oyu Tolgoi copper-gold project (OT) and the Tavan Tolgoi coking coal project (TT).

These marquee projects remain central to Mongolia's mineral sector. The OT mine alone contains over 35 million tons of copper and 1,275 tons of gold and will likely drive Mongolia's GDP growth well into the future. Production at OT was slated to start in 2013 and reach full capacity by 2017-18. Although progress has stalled repeatedly, initial commercial production from OT's open pit began in July 2013. At full capacity, the OT mine is expected to supply 450,000 tons of copper a year, close to 3% of world output.[1] Although in a more preliminary stage, TT holds estimated reserves of over 6 billion tons of high quality thermal and coking coals, with approximately 100 years of production

[1] Asel Isakova, Alexander Plekhanov and Jeromin Zettelmeyer. "Managing Mongolia's Resource Boom." *EBRD*. Working Paper 138. January 2012.

capacity. Together these mines will contribute substantially to Mongolia's projected growth, which is anticipated to approach 13% in 2013, and continue at high levels, barring significant political changes.

In addition to these flagship projects, Mongolia continues to explore its significant potential in other areas, including but not limited to gold, copper, molybdenum, fluorspar, coal, zinc, tungsten, rare earths, iron, and uranium.   Gold production grew by 5.1% in 2012. Iron ore production increased by over 30% in 2012. Producing both acid and metallurgical grades, Mongolia ranks 5th among global fluorspar producers, with 4% of the world's total production.   Mongolia's most common and economically viable rare earth metals are tantalum, niobium, yttrium, thorium, and zircon.

These opportunities have already positively impacted U.S. exporters of mining goods and services. Overall exports from the U.S. to Mongolia have expanded from USD 43 million in 2009 to USD 650 million in 2012, or 15 times—with at least a 5th of these exports directly linked to the OT mining project. The hope is that as other mines are developed, the ongoing successful performance of U.S. exports at OT and other high profile Mongolian mining projects will lead to expanded use of U.S. goods and services throughout the entire Mongolian mining sector.   Exporters willing to consider ways to add value locally through employment and investment will find a welcoming environment.

Resources Return to top

Mongolian Resources

Business Council of Mongolia: www.bcm.org

Embassy of Mongolia, Washington, DC: http://www.mongolianembassy.

Foreign Investment Regulation and Registration Department:
http://www.investmongolia.com/

Government of Mongolia: http://www.pmis.gov.mn

Intellectual Property Office: http://www.ipom.mn/

Mineral Resources and Petroleum Authority of Mongolia: http://www.mram.mn

Mongol Chamber of Commerce and Industry: http://www.mongolchamber.mn/en/

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U.S. Department of Commerce: http://www.commerce.gov/

U.S. Export-Import Bank: http://www.exim.gov/

U.S. International Trade Administration: http://www.trade.gov/

U.S. Department of State: http://www.state.gov/

U.S. Overseas Private Investment Corporations: http://www.opic.gov

U.S. Trade and Development Agency: http://www.ustda.gov

Construction Sector

Overview

Return to top

	2011	2012
Total Market Size	1,840,641.5	1,915,434.9
Total Local Production	1,761,829.5	1,598,417.6
Total Exports	1,451,000	1,563,000
Total Imports	1,529,812	1,880,017
Imports from the U.S.	64,898	79,799
Exchange Rate: 1 USD	1265.5	1357.5

Unit: USD thousands

Although constrained by its harsh winters, Mongolia's construction sector continues to flourish, presenting opportunities for U.S. investors and exporters of U.S. construction goods and services–particularly those willing to employ and invest locally. The construction industry grew by 25.6% in 2012 led by public infrastructure investment. Paralleling this growth, inward FDI in the engineering and construction sector jumped significantly, from under USD 1 million in 2010 to 47 million in 2012.[2] While industrial and residential construction was significantly weaker when compared to 2011, the increase in public construction activities, including of basic service facilities (e.g., schools and hospitals), offset this decline.[3]

Mongolia's rapid urbanization remains a strong driver of growing demand for social infrastructure and residential housing, as well as transportation and communications networks. While Mongolia's total population remains small at 2.9 million, 68% of the people reside in cities, with 42% living in the capital city.[4] Cities have grown by 3% annually since 2000. From 1982-2009, the population of Ulaanbaatar more than doubled from 450,000 to over a million. With urbanization, a large housing market is rapidly growing; as a result, residential stock is in short supply and demand shows no signs of slacking.

Contributing to the rise in demand for housing, Mongolia's mortgage market has been expanding substantially, with an increase in its total mortgage portfolio outstanding by

[2] FDI data from FIRRD
[3] WB April Update
[4] World Bank Data

190% to MNT 656 billion (USD 482 million) between 2009 and the end of 2011.[5] Though this liquidity may increase demand quickly, escalating housing prices, which have outpaced CPI and GDP growth in 2011, may constrain middle-class-driven demand. In mid-2013 the Government initiated a program to underwrite mortgage lending to middle class homeowners. While still in its early days, the program should spur residential construction.

Further, infrastructure, zoning, and climatic constraints, as well as the government's policy of counter-cyclically approving mortgage loans (to prevent the real estate market from overheating) may check the energetic growth in construction projects.[6] These factors, however, are unlikely to substantially affect the sector, as housing, commercial real estate, roads, and other critical infrastructure remains under-supplied, with demand showing no signs of lessening.

Short supply in the construction sector results from many factors. First is a shortage of qualified construction companies. Mongolia's construction industry has only been fully privatized since 1998. Hence, the mix of private and public companies present in Mongolia—100 architectural and engineering design companies and over 800 construction companies—are learning how to work and prosper in the free market. Due to the nascent construction industry, companies are still learning to select and utilize technologies efficiently. Second, Mongolia needs expertise and technology, specifically in the areas of concrete and cold weather construction, and heating, ventilation and air conditioning installation. Third , many companies have limited capacity; only 40 are large-scale operations with their own in-house design and engineering units or partnerships with companies that manufacture or import construction materials

Growing industrial, service, and tourism industries also ensures a growing demand in the construction sector. The number of visitors increased 70% from 2000 to 2010 (137,000 to 457,000 visitors); and revenues from tourism grew 85% over the same period to USD 258 million. These visitors will require more lodging and services.

Mining sector development also drives expansion. For example, the government announced in January 2012 that 3,000 apartments, roads, a school and a kindergarten, as well as a hospital, hotel, and shopping centers, will be built near the OT mining site. These projects are valued at USD 73.26 million, and financed by Turquoise Hill Resources, Rio Tinto and the state-run Erdenes Mongol Tavan Tolgoi mine. This rapid expansion of the mining sector has fed into private demand, keeping construction humming at a clipper pace.

Of particular note is the growth in the luxury housing market. Prices for high-end residential units nearly doubled from the first quarter of 2010 to the first quarter of 2011, according to a local real estate firm.[7] The prices for these units ranged from MNT 2 million (USD 1,465) per square meter to MNT 10 million (USD 7,326) per square meter, according to the National Statistical Office, as of May 2011. More generally, housing prices in Ulaanbaatar ranged from MNT 850,000 (USD 623) per square meter to MNT 1.48 million (USD 1,084) per square meter.

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[5] "Mongolia Housing Finance Technical Note." *The World Bank*. June 2012, p. 2
[6] "Mongolia Housing Finance Technical Note." *The World Bank*. June 2012, p. 2
[7] http://www.oxfordbusinessgroup.com/economic_updates/mongolia-hot-property#english

Resources Return to top

Mongolian Resources

Business Council of Mongolia: www.bcm.org

Embassy of Mongolia, Washington, DC: http://www.mongolianembassy.

Foreign Investment Regulation and Registration Dept: http://www.investmongolia.com/

Government of Mongolia: http://www.pmis.gov.mn

Intellectual Property Office: http://www.ipom.mn/

Mineral Resources and Petroleum Authority of Mongolia: http://www.mram.mn

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U.S. International Trade Administration: http://www.trade.gov/

U.S. Department of State: http://www.state.gov/

U.S. Overseas Private Investment Corporations: http://www.opic.gov

U.S. Trade and Development Agency: http://www.ustda.gov

Information Technology

Overview Return to top

	2011	2012
Total Market Size	1,840,641.5	1,915,434.9
Total Local Production	1,761,829.5	1,598,417.6
Total Exports	1,451,000	1,563,000
Total Imports	1,529,812	1,880,017
Imports from the U.S.	64,898	79,799
Exchange Rate: 1 USD	1265.5	1357.5

Unit: USD thousands

Over the last 10 years, Mongolian demand for computer goods and services has boomed. In absolute terms the numbers seem small: over 70 internet services companies; 709,600 plus internet users;[8] and 199,849 internet subscribers. However, the pace of growth is substantial. The penetration of internet has reached 30% and the infrastructure for its use now covers much of Mongolia, albeit it only the populated parts. The growth in internet subscribers represents an increase of over 53% compared from 2009.[9] Mongolians' use of mobile phones has also skyrocketed penetrating over 100% of the market (Note: Most Mongolian consumers subscribe to more than one IT and telecommunication service).

Demand for both communications and internet technologies have been evolving rapidly. In the telecommunications sector, the use of fixed lines is minimal and declining, as Mongolia has largely bypassed this stage, proceeding directly to the use of mobile and wireless technologies. There are four major providers, Mobicom, Skytel, Unitel, and G-mobile—all offering pre-paid and post-paid plans for communication and computer services. By far, the use of pre-paid credit dominates the market. Halved prices for per minute charges have contributed to the expansion in users.

Introduction of new technologies has accompanied the boom in mobile phone use. Since 2009, MobiCom, Skytel, and Unitel have launched 3G high-speed mobile broadband services in Mongolia. These services are accessible to all users, provided they have the supporting technology on their phones. 3G, as of 2010, is available in 31 soums and settlements, covering over 171,000 users.[10] Several companies have also been successful marketing pre-paid long-distance direct calling card services.

In the internet services sector, technology has also been improving steadily. Starting with the first VSAT technology that operated with 64kbps in 1996, Mongolia has now moved on. As of 2010, internet services available include xDSL (ADSL, HDSL, VDSL), Fiber optic, GPRS (including 3G, EVDO and EDGE), WiMax, WiFi technologies, dial-up and VSAT. The average speeds of bandwidth in Mongolia for downloading is 11.2Gbps and for uploading 11.2Gbps. According to Frontier Securities data, the wholesale price connection has dropped from USD 3,250 per 1 Mbps in 2004 to USD 80 in 2011.

The ICT sector presents substantial opportunity. Mongolia spends approximately USD 284 million on computer, communication, and other services imports, while exporting around USD 131 million in ICT services. The level of investment in the sector has been steadily increasing from USD 2.5 million in 2005 to USD 66 million in 2010. Of total ICT sector revenues—totaling USD 471 in 2010—about 73% were generated by mobile services, and the remaining from fixed telecommunications network, including VoIP, internet, cable TV, broadcasting, etc.

There is still considerable room for growth given that only about half of Mongolia's provincial towns have high-speed internet access. Of Mongolia's regular internet users, 18.7% rely on fiber-optic cables. Currently there are 17,900 kilometers of fiber-optic cables installed in Mongolia, covering about 70% of users. The ICTPA estimates that

[8] Documented in 2010 by the Mongolian Population and Housing Census
[9] White Paper, GOM
[10] White Paper, GOM

full coverage would require 40,000 kilometers of cables.[11] Additionally, digital subscriber lines comprise about 12.6% of internet access, while wireless technologies, including Wi-Fi, WiMAX, and VSAT serve less than 1% of users.

Price sensitivity continues to affect consumers' choices regarding internet services as well as personal computing choices. By and large, although the number of computers jumped from 46 per 1000 persons in 2007 to 85 per 1000 persons in 2010[12], most Mongolia's are still reliant on internet cafes or other 3rd party devices for access. The number of internet subscriptions, therefore, is well below the number of computers—at approximately 351,758 subscriptions. However, the remainder of the market is likely to purchase personal computing equipment and/or internet services as soon as it becomes affordable, given Mongolians' familiarity with and frequent use of ICTs and social media resources.

As evidence of the popularity of computers and social media in Mongolia, the number of websites, blogs, etc. serving Mongolian users has grown rapidly. Intec, a local IT consulting firm, identified some 3,400 websites with Mongolia-related content, with around 60 of them using the county's ".mn" domain name. There are upwards of 1,823 Mongolia-themed blogs, with around one-third of them started in 2010. More than 160,000 Mongolians have a Facebook account, all predominantly youth, with 78% of subscribers aged between 18 and 34.

The use of social networking, websites, and email for advertising and business services is also on the rise. The most popular version of social networking in Mongolia is Biznetwork, with over 70,000 users that include corporations as well as individuals. Non-governmental organizations also use these types of platforms to organize events and convey messages to the public. Email advertising is becoming more commonplace as a conduit of information on products and services. A number of email marketing companies maintain databases of email addresses, which is the only way to reach individual consumers, aside from text messaging, given that the scarcity of postboxes in Mongolia.

Software development companies specialize in various areas, ranging from the creation of applications for use at stand-alone computers to enterprise software for networks and the development of websites and portal sites. More companies have shifted towards providing web-based applications. A break-down of companies shows that 20% work on development of websites while 16% specialize in software and application development.

Mongolia's IT infrastructure continues to evolve, striving to reach Western standards. Approximately 3 fixed broad band internet subscribers per 1000 people, but this has grown rapidly from 0.1 in 2006. There are 54 secure internet servers in Mongolia. The fiber-optic network had reached all 21 aimag (provincial) centers and over 300 soums (counties) by 2013. The development of the main infrastructure, fiber-optic cables, is predominantly owned and managed by the state-owned Information Communication Network Company and Railcom respectively. However, private operators, with Mobicom, Gemnet, Skytel, Unitel, have installed their own fiber optic and wireless networks.

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[11] http://mongolia-briefing.com/news/2012/03/mongolias-it-sector-continues-to-see-rapid-growth.html

[12] Data from the Information Communications Technology Post Authority of Mongolia

Resources Return to top

Mongolian Resources

Business Council of Mongolia: www.bcm.org

Embassy of Mongolia, Washington, DC: http://www.mongolianembassy.

Foreign Investment Regulation and Registration Department: http://www.investmongolia.com/

Government of Mongolia: http://www.pmis.gov.mn

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U.S. Department of Commerce: http://www.commerce.gov/

U.S. Export-Import Bank: http://www.exim.gov/

U.S. International Trade Administration: http://www.trade.gov/

U.S. Department of State: http://www.state.gov/

U.S. Overseas Private Investment Corporations: http://www.opic.gov

U.S. Trade and Development Agency: http://www.ustda.gov

Agricultural Sectors Return to top

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Exchange Rate: 1 USD	1265.5	1357.5

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Agriculture remains a mainstay of Mongolia's economy both as a source of national revenue as well as employment. It contributes about 37 % of gross domestic product, constituting approximately a quarter of Mongolia's total economic growth in 2012.[13] Agriculture and livestock is also source of direct and indirect employment for more than half of the population. Direct employment in the agricultural sector, as a percentage of total employment, has remained fairly steady at 40% from 2004-2009.

While central to Mongolia's economy, it is only recently that agriculture sector investors have moved to improve efficiency and profitability. Initial privatizations of state farms and livestock cooperatives in the early 1990s, the deregulation of prices of major agricultural products, and the liberalization of agricultural trade hit the state-operated, state-owned sector hard. Early privatization was ill-timed, ill-conceived, and ill-executed. From 1991 to 1995, production of some commodities halted or declined to near subsistence levels. By 1996, the sector rebounded, and by 2002, most of the state farms were fully privatized under single (individual or company) ownership or limited partnerships of two or three owners.

The Government recognizes that sustainability in agriculture and rural areas depends largely on modernizing the livestock sector and improving land management. In 2002 the government passed legislation allowing long-term land leasing, strengthening sector institutions, privatizing service delivery wherever possible, and continuing with the privatization process. The government will not sell farm and grazing land. It will allow Mongolian citizens and foreigners to acquire the long-term use rights to these lands. Locals may be given preference. The need to brand the Mongolian food industry, expand domestic processing of agricultural products, as well as increasing technological capacity and standardizing production were all main topics at the Mongolia Economic Forum 2013. The government has signaled its intent to move forward on all of these fronts.[14]

Food and Product Processing:

Although most of Mongolia's provinces have established private food plants and shops, there is a tendency to import food products from abroad because domestic enterprises produce no food to international standards. Roughly, Mongolia spends around USD 772 million on food imports annually. This tendency to achieve higher quality through imports is driven, in part, by the low technological base in the food production industry. Likewise, Mongolia engages in very little domestic processing of foods and animal products. For example, by 2012 only 7% of domestic meat and 9% of domestic dairy products were processed in Mongolia for export.[15] Failure to upgrade existing production technology continues to slow development of both food production, as well as export of higher value-added agricultural products, such as leather or cashmere.

Both the public and private sectors want to improve the operations at food processing plants, develop small and medium enterprises for processing and preserving vegetables and fruits, as well as produce sugar, vegetable oil, and grow some grains domestically to meet the demand. But capacity is a serious constraint. For example, currently there are 44 meat factories producing 150 types of products in Mongolia, but they only operate

[13] World Bank Country Update April 2013
[14] http://ubpost.mongolnews.mn/?p=3235
[15] http://ubpost.mongolnews.mn/?p=3235

at10 percent capacity. Increasing capacity will require new technology and equipment, which will require funding of at least 200 billion MNT, as well as expansion of related infrastructure, which is also lagging. The value-added tax on the importation of equipment is one factor that slows the adoption of technology in the agricultural and food production sectors.[16]

Ranching and Meat Processing

Mongolia has potentially excellent customers for its meat products in Russia, China, and other Asian markets. Much of Russian Siberia lacks good grazing land, so protein production remains a consistent problem. Although China has grazing land, much of that is given over to cereal production or, in the case of Inner Mongolia, cashmere. Mongolia has grasslands and livestock in abundance. Hungry markets to the North and South are a clear business opportunity for American ranchers and meat processing and marketing technologies.

Although these markets exist, impediments remain. First, quotas and restrictive health regulations inhibit the meat trade between Mongolia and her neighbors. For example, Russia limits imports of beef from Mongolia to 35,000 metric tons a year, a quota Mongolia fills quickly. Sources at the various border posts suggest that at least that much (most likely much more) goes across as contraband. Much the same situation prevails at the Mongolian-Chinese border.

Chinese and Russian ascension to the World Trade Organization have increased the incentives for Asian countries to open borders and increase trade, giving Mongolia the leverage it needs to crack these tempting markets. The Mongolian Government has taken concrete steps to assist in increasing Mongolian meat exports, especially those beyond Siberia. In addition, USAID has supported programs to provide training in meat processing, project management, and product marketing.

Slow technological adoption also drags down Mongolia's production, especially for export markets. In 2012, there were 40.9 million livestock in Mongolia. Eight million were slaughtered for domestic meat consumption, producing approximately 220,000 tons of meat; only 3,000 tons were processed and exported. In part, both the low level of production, along with the meager revenues it produces (much of the export is raw commodities) stems from the inexperience in processing goods.

The Ministry of Industry and Agriculture has highlighted the need for the upgrading and standardization of production practices. The government would like to adopt European standardization methods that will enable tracing of the origin of meat and dairy products but is finding lack of domestic capacity hinders effective implementation.

The Mongolian Government's desire for improved technology and its vision that the State, private sector, science, and research institutions work together to brand Mongolian meat provide opportunities for the involvement of U.S. companies specializing in these areas. In particular, existing meat processing plants require technological renovation to increase capacity and upgrade the quality and sanitation to expand their markets. There is also a need for food preservation technology, packaging

[16] http://ubpost.mongolnews.mn/?p=3235

and marketing techniques, as well as training in more modern butchering and processing techniques.

Wheat

Wheat is central to the diet and agricultural economy of Mongolia as the main crop in the country and a major food staple. Wheat flour comprises approximately 50% of the daily caloric intake of Mongolians. Until the mid-1990s, Mongolia was self sufficient in wheat and an occasional exporter.[17] Since, 1994, production levels have steadily declined, replaced by commercial imports. In addition to supplying these imports, there are additional opportunities for firms to assist in the upgrading of the processing of consumer products for domestic consumption and export in wheat products manufacturing (noodles, bakeries), small scale flour milling. In addition, a growing market exists for herbicides, fertilizers, and quality wheat seed.

Vegetables

Mongolia's young market with consumers with rising incomes is accepting new foods, especially vegetables. Lettuces, peppers, Washington apples, and California grapes appear in Ulaanbaatar's markets regularly.

Resources Return to top

Return to table of contents

Mongolian Resources

Business Council of Mongolia: www.bcm.org

Embassy of Mongolia, Washington, DC: http://www.mongolianembassy.

Foreign Investment Regulation and Registration Department: http://www.investmongolia.com/

Government of Mongolia: http://www.pmis.gov.mn

Intellectual Property Office: http://www.ipom.mn/

Mineral Resources and Petroleum Authority of Mongolia: http://www.mram.mn

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Parliament of Mongolia: www.parl.gov.mn

U. S. Embassy Resources

Senior Commercial Specialist: richmondmd@state.gov

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[17] **Enkhbayar TUMURTOGOO. "Food Demand and Supply of Mongolia."** *Mongolian State University of Agriculture.*

U.S. Embassy, Ulaanbaatar: http://mongolia.usembassy.gov

U.S. Department of Commerce: http://www.commerce.gov/

U.S. Export-Import Bank: http://www.exim.gov/

U.S. International Trade Administration: http://www.trade.gov/

U.S. Department of State: http://www.state.gov/

U.S. Overseas Private Investment Corporations: http://www.opic.gov

U.S. Trade and Development Agency: http://www.ustda.gov

Return to table of contents

Chapter 5: Trade Regulations, Customs and Standards

Import Tariffs

Return to top

Most imported goods are subject to 5% ad valorem Customs duty while some others are subject to seasonal duties. Certain goods for export are subject to specific Customs duties. Any entity engaged in foreign trade is liable to pay Customs duties as well as some other taxes and fees upon importation or exportation. For information on tariffs and non-tariff regulations: http://ecustoms.mn/tax.php?wmid=115&wmsid=151.

Trade Barriers

Return to top

Mongolia has a free trade regime-- no quotas or onerous licensing requirements. Incoming or outgoing shipments are occasionally delayed because of unexpected changes in paperwork requirements. The lack of transparency and consistency in how regulations are both crafted and applied remain obstacles to doing business in Mongolia.

Import Requirements and Documentation

Return to top

Customs clearance for export and import consists of the following steps:

1. Preparing and providing customs document for declaration of goods.
2. Customs inspection of customs documents.
3. Inspection of the goods and means of transport.
4. Levying customs duties and other taxes and payments thereto.
5. Granting permission and releasing goods to cross customs border.

For more information see: http://ecustoms.mn/business.php?wmid=113&wmsid=146

Export/Import of Strategic food:

According to the *Interim Regulation on Issuing Export/Import licenses for Strategic Food* approved by Government resolution No 77, dated March 02, 2013, licensing of export and import of strategic food defined in Article 3.1.6 of Law on Food (a) liquid and powder milk, b) meat of cattle, horse, camel, goat and sheep processed other than heating, c) wheat flour, d) potable water) shall be based on open tender for given year. National Council on Food Security shall define the type and amount of strategic food to be exported/imported based on proposals by the ministry in charge. The license is issued for each type of food and valid for 6 months.

U.S. Export Controls

Return to top

For information on U.S. export controls applicable to Mongolia go to:

- http://www.state.gov/strategictrade/resources/c43182.htm

Temporary Entry

Return to top

Mongolia joined the Istanbul Convention on Temporary Admission of Goods in 2002. The Mongolian National Chamber of Commerce and Industry is responsible for issuing ATA carnet and guarantee (*Admission Temporaire/Temporary Admission*). 11 customs posts in Mongolia were approved for border crossing rights for temporary entry:

1. Customs branch at Altanbulag, Selenge province
2. Customs office at Zamyn-Uud, Dornogobi province
3. Customs office of Ulaanbaatar city
4. Customs bureau of Darkhan-Uul province
5. Customs bureau of Orkhon province
6. Customs bureau at Khankh, Khuvsgul province
7. Customs branch at Tsagaannuur, Bayan-Ulgii province
8. Customs branch at Ereentsav, Dornod province
9. Customs branch at Bulgan, Khovd province
10. Customs branch at Borshoo, Uvs province
11. Customs office at Buyant-Ukhaa

Find information at http://ecustoms.mn/other.php?wmid=106&wmsid=127, or contact the Customs Control & Clearance Department at +976-11- 353541.

Labeling and Marking Requirements

Return to top

Amendments to the Law on Food of Mongolia (effective March 01, 2013) require labels of imported food be written in Mongolian, Russian or English languages. Only a legal entity of Mongolia is allowed to import food (not an individual). An exporter must conclude an agreement with a Mongolian importer that employs quality management and standards for agricultural, food and health.

For more information contact the Export/Import Monitoring Department, General Agency of Specialized Inspection at +976-11-264147.

Prohibited and Restricted Imports

Return to top

Prohibited items include illegal drugs/narcotics, devices and equipment used to manufacture illegal drugs/narcotics, narcotic plants, all types of illegal spirits, and scrap metal, (ferrous and non-ferrous). Narcotics and narcotic plants for medical purposes are allowed with permission of the State central organization in charge of health.

Restricted items: highly toxic chemicals, organs and donor blood for the purpose of preventing and treatment under required medical control, guns, rifles, weapons, military equipment and devices and their spare parts, or explosives.

Mongolia restricts the import and export of certain items. Please consult Customs regulations in detail before importing or exporting these items:

- Uranium and uranium concentrates;
- Poisonous chemicals;
- Human blood, organs and blood products;
- Firearms and ammunition;
- Artifacts and cultural property, including historical, cultural, fossils, archeological and similar items;
- Breeding animals, rare species of animals, animal offspring;
- Precious metals, precious and semi-precious stones, ore, minerals and rare elements;
- Alcohol.

More information: http://ecustoms.mn/tax.php?wmid=105&wmsid=119&wcid=110

Customs Regulations and Contact Information

Return to top

Customs General Administration: http://www.ecustoms.mn/
Contact: Director International Cooperation Division
Tel: 976-11-266782
E-mail: info@ecustoms.mn

Standards

Return to top

Overview Return to top

The National Council of Standardization is administered by the Mongolian Agency for Standardization and Metrology (MASM) http://masm.gov.mn/. Its Chairman is appointed by the Government of Mongolia and reports to the Deputy Prime Minister's Office. The highest decision-making organ of MASM is its Council, with 21 members - representatives from ministries, nongovernmental organizations, scientific academia, and relevant industrial sectors.

The aim of MASM in standardization is to contribute to the development of the Mongolian society, economy, industry and trade by establishing standards on the basis of mutual understanding and voluntary agreement between parties in governmental authorities, industry and business, with regard to consumers' rights, and in continuously developing standardization activities aligned to the market system.

The preparation, application and promotion of national standards are set out in the Mongolian law on "Standardization and Conformity Assessment", adopted in 2003.

MASM approves and publishes all Mongolian standards, represents Mongolia in international standardization within ISO, and is the Mongolian WTO/TBT Enquiry point.

Standards Organizations Return to top

The National Council of Standardization approves and adopts the standards used within the territory of Mongolia after being reviewed and accepted by the standardization Technical Committee (TC). There are 46 TC's and sub-committees at MASM. The Department of Standardization and Technical Regulation regulates TC activities and defines, resolves and develops national standards.

Mongolian maintains about 6200 national standards, 45% of which are in compliance with international or regional standards. Find the list of national standards at: http://www.estandard.gov.mn/index.php?module=menu&cmd=content&menu_id=132

Technical regulations:

Technical regulations shall be exercised in order to ensure the safety of products, which may harm the public interest, human health, the environment or security of nations, and to prevent from supply of deceptive products into the market. A regulation is approved by the Government Cabinet. The central body in charge of standards issues, MASM, shall review and draw conclusions on draft technical regulations. The Government Cabinet member in charge of trade issues, the Ministry of Economic Development, shall exercise the power to accept domestically the technical regulations, proposed by the member countries of the World Trade Organization (WTO) to apply in international trade (in accordance to the Convention on Technical Barriers to Trade). The central body in charge of standard issues, MASM, shall inform other members of the WTO no less than three months in advance before adopting technical regulations, proposed by the member countries of the WTO.

NIST Notify U.S. Service:

Member countries of the World Trade Organization (WTO) are required under the Agreement on Technical Barriers to Trade (TBT Agreement) to report to the WTO all proposed technical regulations that could affect trade with Member countries. **Notify U.S.** is a free, web-based e-mail subscription service that offers an opportunity to review and comment on proposed foreign technical regulations that can affect your access to international markets. Register online at Internet URL: http://www.nist.gov/notifyus/

Conformity Assessment Return to top

The Department of Product and System Conformity conducts activities in following fields:

- Imported product conformity;
- Exported product conformity;
- Services conformity;
- Domestic product conformity;
- System conformity;
- Approval of "MNS" mark for products and services;
- Conformity for "Eco" mark/

Information: http://www.masm.gov.mn/index.php?module=divisions&cmd=conformity

Product Certification Return to top

The national testing organization for *proficiency testing* is the Laboratory of Reference Materials at MASM. The laboratory is in charge of the laboratory requirements for proficiency of testing and calibration laboratories usually on food products, water and minerals. For more details call 976-266808.

http://www.masm.gov.mn/index.php?module=divisions&cmd=conformity

Accreditation Return to top

The Department of Accreditation of MASM has authority for accreditation of the following institutions:

- Accreditation for testing laboratory;
- Accreditation for organizations of technical monitoring and confirmation;
- Accreditation for human health and veterinary laboratory;
- Accreditation for metrology laboratory.

For more information contact the Department of Accreditation at 976-11-263907 or go to http://www.masm.gov.mn/index.php?module=divisions&cmd=accreditation

Publication of Technical Regulations
Return to top

Publication of technical regulations is a responsibility of MASM

Labeling and Marking
Return to top

The Technical Committee (TC) on Labeling and Marking was established at MASM. For more information contact Standardization & Technical Regulation Department at 976-11-455284.

Contacts
Return to top

- Foreign Registration and Regulation Department: http://www.investmongolia.com/
- Ministry of Industry and Agriculture: http://mofa.gov.mn/
- Mongolian National Chamber of Commerce and Industry: http://www.mongolchamber.mn/en/
- National Statistical Office: http://www.nso.mn/contacts.php
- Mongolian National Center for Standardization and Metrology: http://masm.gov.mn/index.php
- General Agency for Specialized Inspection: http://inspection.gov.mn/

Trade Agreements
Return to top

- Mongolia has both signed and ratified most WTO treaties. For more information go to http://www.wto.org/.

- Mongolia has signed and ratified bilateral investment treaties with the following countries:

Reporter	***Partner***	***Date of Signature***	***Entry in to force***
Mongolia	Austria	19-May-01	1-May-02
	Belarus	28-May-01	1-Dec-01
	Belgium/Luxembourg	3-Mar-92	15-Apr-04
	Bulgaria	6-Jun-00	------------
	China	25-Aug-91	1-Nov-93
	Croatia	8-Aug-06	------------
	Cuba	26-March-99	-----------
	Czech Republic	13-Feb-98	5-Jul-99
	Denmark	13-Mar-95	2-Apr-96
	Egypt	27-Apr-04	25-Jan-05
	Finland	15-May-07	------------
	France	8-Nov-91	22-Dec-93
	Germany	26-Jun-91	23-Jun-96
	Hungary	13-Sep-94	29-Aug-95
	India	3-Jan-01	29-Apr-02
	Indonesia	4-Mar-97	13-Apr-99

Israel	25-Nov-03	2-Sep-04
Italy	15-Jan-93	1-Sep-95
Japan	15-Feb-01	24-Mar-02
Kazakhstan	2-Dec-94	3-Mar-95
DPR of Korea	10-Nov-03	-----------
Republic of Korea	28-Mar-91	30-Apr-91
Kuwait	15-Mar-98	1-May-00
Kyrgyzstan	5-Dec-99	-----------
Lao People's DR	3-Mar-94	29-Dec-94
Lithuania	27-Jun-03	3-May-04
Malaysia	27-Jul-95	14-Jan-96
Netherlands	9-Mar-95	1-Jun-96
Philippines	1-Sep-00	1-Nov-01
Poland	8-Nov-95	26-Mar-96
Qatar	29-Nov-07	------------
Romania	6-Nov-95	15-Aug-96
Russian Federation	29-Nov-95	------------
Singapore	24-Jul-95	14-Jan-96
Sweden	20-Oct-03	1-Jun-04
Switzerland	29-Jan-97	9-Sep-99
Tajikistan	20-Mar-09	16-Sep-09
Turkey	16-Mar-98	22-May-00
Ukraine	5-Nov-92	5-Nov-92
UAE	21-Feb-01	-------------
United Kingdom	4-Oct-91	4-Oct-91
United States	6-Oct-94	4-Jan-97
Vietnam	17-Apr-00	13-Dec-01

UNCTD: http://www.unctad.org/sections/dite_pcbb/docs/bits_mongolia.pdf)

- The text of the U.S.-Mongolia Bilateral Investment Treaty can be found at http://www.state.gov/e/eb/ifd/43303.htm.

Web Resources Return to top

Mongolian Resources

Business Council of Mongolia: www.bcm.org

Embassy of Mongolia, Washington, DC: http://www.mongolianembassy.

Foreign Investment Regulation and Registration Department: http://www.investmongolia.com/

Government of Mongolia: http://www.pmis.gov.mn

Intellectual Property Office: http://www.ipom.mn/

Mineral Resources and Petroleum Authority of Mongolia: http://www.mram.mn

Mongol Chamber of Commerce and Industry: http://www.mongolchamber.mn/en/
Parliament of Mongolia: www.parl.gov.mn

U. S. Embassy Resources

Senior Commercial Specialist: richmondmd@state.gov

U.S. Embassy, Ulaanbaatar: http://mongolia.usembassy.gov

U.S. Department of Commerce: http://www.commerce.gov/

U.S. Export-Import Bank: http://www.exim.gov/

U.S. International Trade Administration: http://www.trade.gov/

U.S. Department of State: http://www.state.gov/

U.S. Overseas Private Investment Corporations: http://www.opic.gov

U.S. Trade and Development Agency: http://www.ustda.gov

Return to table of contents

Return to table of contents

Chapter 6: Investment Climate

Openness to Foreign Investment Return to top

The Government of Mongolia (GOM) has consistently said that it supports foreign direct investment (FDI) in all sectors. As recently as December 2012, President of Mongolia, Ts. Elbegdorj, publicly stated that the GOM will keep key foreign investment commitments because it recognizes the value of FDI for Mongolia. However, investors assert that Mongolia's support for FDI seems more an aspiration than a reality. Specifically, they report that government action affecting both FDI and resource extraction show a declining GOM commitment to the transparent rule of law and free market principles.

Observers argue that the *2012 Strategic Entities Foreign Investment Law of Mongolia* (SEFIL) limits foreign ownership of assets and access to use rights in three key sectors, among them natural resource extraction. Although SEFIL's full impact remains unclear, investors worry that the law may bar them from participating in key sectors of the Mongolian economy or force divestment of Mongolian assets and equities in the affected sectors. Consequently, both foreign and domestic investors consider Mongolia a riskier place to invest than it once was; and perhaps riskier than similar emerging markets.

More positively, the key Oyu Tolgoi copper-gold project (OT) moves forward, having brought over US $ 7 billion in capital, technology, jobs, and tax revenues to Mongolia through 2012. However, doubts persist over both the GOM's commitment to honoring the OT Investment Agreement (IA) and its ability to manage public expectations over mining revenues and related development. In addition, delays in striking deals on important coal projects at the world class Tavan Tolgoi coking coal deposit (TT) and delays in reforming Mongolia's security laws and equity markets spur concern that the GOM lacks both the will and the capacity to execute multiple reforms and projects. Investors worry that Mongolia, overwhelmed by these demands, will simply cease to complete vital reforms, impose new burdens on investors, and delay or effectively cancel projects.

Investors also suggest that Mongolia's ambivalence to FDI may be driven by the GOM's explicit aim to create national mining champions for coal, uranium, copper, and rare earths. GOM representatives have argued in the media and to contacts that a national champion owned and operated primarily by Mongolians for Mongolians would be more inclined to conduct value-added operations and development in Mongolia than would a company primarily owned and operated by foreign investors. Whether or not this policy effectively meets Mongolia's fiscal and development needs, observers tell us that they perceive that the GOM may not favor foreign investment and is taking steps to limit such investment, because it considers that such investment may impede these goals.

Recent Legislative and Governmental Trends affecting FDI in Mongolia

Foreign and domestic investors argue that Mongolia's processes for crafting both laws and regulations negatively impacts FDI into Mongolia. A key concern is that the proposal of amendments to a given law seems to freeze, or at least significantly slow, the Mongolian regulatory process; thus threatening access to use rights granted under current Mongolian laws. For example, the ongoing amendment process to the 2006 Minerals Law of Mongolia has adversely affected the regime for issuing exploration and mining licenses.

In 2010, the President of Mongolia criticized the existing minerals licensing regime, setting into motion an amendment process for the entire law. This process, well into its third year, has produced numerous draft amendments by the government, Parliament, and most recently from the President of Mongolia. Although the 2006 Minerals Law is in force, officials at all levels now delay—or openly refuse—to process normal requests for extending or issuing exploration and mining licenses; and state that the amendment process effectively invalidates current law, because actions taken under current law might be subject to *post facto* changes imposed under a new statute. Therefore, officials are reluctant to issue licenses and permits that might eventually become invalid or require alteration. In certain cases, investors report that officials have threatened to revoke valid licenses because they might become "illegal" under the pending legislation.

The effect has been to generate long and costly bureaucratic delays in many economic and commercial sectors, raising investment risk.

Legislating the Resource Pie

Investors may expect that investments, particularly in the resource sector, will be subject to uncertain legal and regulatory regimes as the GOM reconciles fiscal demands with public expectations.

The GOM has claimed that it must amend laws related to resource extraction to insure that Mongolia gets its fair share of revenues from such activities; and to insure that investors and operators fulfill their environmental obligations and corporate social responsibilities to the national and local communities in which they work.

Public misperception and impatience fuel this trend. First, media and observers report that the Mongolian public believes that current statutes and regulations grant foreign and domestic investors all the benefits of extracting resources, while leaving local communities with all the costs. Second, the Mongolia public expects that mining revenues will finance significant infrastructure and development needs, and has grown increasingly impatient over delays in receiving long-promised benefits from major mining projects.

Faced with a restive public, the GOM amends both statute and regulation to gain more revenue and to quell public unease. This process has been extremely chaotic, characterized by abrupt, non-transparent attempts to change laws. These efforts impose higher licensing and permit fees, greater obligations on the part of investors to pay for local and regional development, higher royalties and taxes, and larger equity stakes for either Mongolian state-owned or private entities in resource extraction companies

Passage of the Strategic Entities Foreign Investment Law (SEFIL)

In May 2012, Parliament passed the *Strategic Entities Foreign Investment Law (SEFIL)*, just before parliamentary elections. Investors widely interpreted this statute as Parliament' response to voter concerns that Mongolia's sovereignty was threatened by the acquisition of mining rights by foreign state-owned and private firms. The Parliament's short deliberative phase had little public transparency, limiting review and comment of the bill by affected parties.

The law defines sectors of strategic importance to include (i) mineral and metal resources (and perhaps hydrocarbon resources); (ii) banking and finance; and (iii) media and communications; and imposes the following restrictions and obligations on foreign state-owned and private investors active in Mongolia:

- Private foreign direct investors (inclusive of affiliates and third parties) must obtain Cabinet and/or parliamentary approval to operate in the specified sectors of strategic importance or to conclude certain transactions with *business entities operating in sectors of strategic importance* (BESI) in many cases. The language "to operate" has not been defined in the SEFIL or clarified through regulations.
- Specific to shareholding, private foreign direct investors (inclusive of affiliates and third parties) must obtain approval from the Cabinet of Ministers for transactions to acquire one-third or more of the shares of a BESI. If the shareholding by a private foreign direct investor in a BESI exceeds 49 percent and the investment at the time is greater than 100 billion Tugriks (about $75 million USD as of this report), then parliamentary approval is required.
- Foreign state-owned legal entities, entities with state ownership and international organizations (inclusive of affiliates and third parties) must obtain Cabinet and/or parliamentary approval to operate in Mongolia or to invest in any company (inclusive of affiliated entities or third parties). This includes investment in sectors outside of sectors of strategic importance.
- Specific to shareholding, so far SEFIL's provisions are being widely interpreted to require foreign state-owned legal entities, entities with state ownership and international organizations (inclusive of affiliates and third parties) to obtain Cabinet approval to acquire any amount of shares in any company in Mongolia. SEFIL does

not clearly state whether Parliamentary approval is required if shareholding by foreign state-owned legal entities, entities with state ownership and international organizations (inclusive of their affiliates and third parties) in a BESI or other company is greater than 49 percent and the investment at the time is greater than 100 billion Tugriks .

- Investors may also be required to seek approval for stock transactions for companies listed on both the Mongolian Stock Exchange and foreign exchanges.
- Stock and other equity transactions on both foreign and domestic exchanges on assets and companies in the specified strategic sectors may be subject to Mongolian taxation.
- All entities subject to the law may also be required to submit to GOM involvement in management, procurement, hiring, and other normal business operations and decisions.
- Current investments may not be subject to the law's provisions; however, if the foreign entity changes its status (i.e. tax or corporate restructuring with the same beneficial ownership), it may become subject to the law's provisions.
- International treaties, such as the U.S.-Mongolia Bilateral Investment Treaty, which allows U.S. investors to be treated as a Mongolian legal entity for investment purposes, appear to take precedence over SEFIL.
- The Foreign Investment Regulatory and Registration Department (FIRRD) of the Ministry of Economic Development (MED) will serve as the secretariat and first reviewer of requests for FDI approval, making recommendations to the Cabinet of Ministers and ultimately Parliament as required.

Investors and lenders recognize that SEFIL is consistent with international practices, because Mongolia has the sovereign right and responsibility to subject FDI to national security and anti-trust reviews. However, investors tell us that they are extremely concerned about the potential level of GOM and parliamentary involvement with FDI in the targeted sectors. SEFIL's remit grants the GOM broad authority to interfere in day-to-day management decisions, over and above crucial decisions on investment, capital spending, and share acquisition; and makes it difficult to plan investments and raises risks of open-ended government intervention to potentially unacceptable levels.

Although the Constitution of Mongolia appears to bar retroactive application of both criminal and civil statutes, investors have told us they remain concerned over whether the GOM will retroactively apply SEFIL to foreign investments made before the law entered into force; and if the government will force companies to divest assets to come into compliance. Given negative perceptions, investors have stated that a definitive and official statement from the appropriate government of Mongolia entity regarding the non-retroactivity of SEFIL would quell persistent doubts.

In spring 2013 the GOM promulgated SEFIL's regulations. Stakeholders continue to raise questions about these regulations as GOM commitments to consult about the regulations were not met.

Limitations on Participation in Real Estate, Petroleum Extraction, and Strategic Minerals Deposits, and Law Practice

Only Mongolian citizens can own real estate. Ownership rights are currently limited to urban areas in the capital city of Ulaanbaatar, the provincial capitals, and the county seats (called *soums*). No corporate entity of any type, foreign or domestic, may own real estate. However, foreigners and Mongolian and foreign firms may own structures outright and can lease property and obtain use rights for terms ranging from one (1) to ninety (90) years. Mongolian law and regulation generally cedes control of the land, usually through lease, to the owner of the structure built upon a given piece of property.

Mongolian law also requires oil extraction firms to enter into production sharing contracts with the government as a precondition for both petroleum exploration and extraction. However, investors in Mongolia's nascent unconventional hydrocarbon sector suggest that the current statutory and regulatory framework does not allow for exploration and extraction of these resources. The GOM has told investors that it will craft new legislation to deal with these concerns.

Passed in 2006, Mongolia's current Minerals Law enacted the concept of the ***strategic deposit,*** which empowers the GOM to obtain up to a 50% share of any mining enterprise on or abutting such a deposit.

The current law defines "a mineral deposit of strategic importance" as *"a mineral concentration where it is possible to maintain production that has a potential impact on national security, economic and social development of the country at national and regional levels or deposits which are producing or have potential of producing above 5% of total GDP per year."* Ultimately, the power to determine what is or is not a strategic deposit is vested in the State Great Hural (Parliament). To date, the GOM has only identified two world class copper and coal reserves, some iron ore deposits, and all deposits of rare earths and uranium as reaching this threshold.

If a mineral deposit is labeled strategic and if the state has contributed to the exploration of the deposit at some point, the GOM may claim up to 50% ownership of the operating entity that may ultimately mine the resource. If the deposit is explored with private funds and the state has not contributed to the exploration of the deposit, the GOM may acquire up to 34% of that entity.

State participation (or share) is determined by an agreement on exploitation of the deposit considering the amount of investment made the state; or, in the case of a privately-explored strategic deposit, by agreement between the state and the firm on the amount invested by the state. Parliament may determine the state share using a proposal made by the government or on its own initiative using official figures on minerals reserves in the *Integrated State Registry*.

Importantly, the state equity provision is not expropriatory on its face, because the GOM has committed itself to compensating firms for the share it takes at fair market value. So far, the GOM has honored this commitment, as experience with the OT Investment Agreement confirms.

In addition, the 2006 Minerals Law and Petroleum Law restrict licenses to entities registered in Mongolia under the terms of the relevant company and investment laws. A foreign entity, in its own right, cannot hold mining or petroleum licenses. Should a foreign entity acquire a given license as either collateral or for the purpose of actual exploration or mining, and fail to create the appropriate Mongolian corporate or financial entity to hold a given license, that failure has served, and continues to serve, as grounds for the GOM to invalidate the license. In essence, the foreign entity may lose its security or its mining rights. We advise investors with specific questions to seek professional advice on the status of their licenses.

Since 2010, the President of Mongolia, members of Parliament, and successive government officials have questioned whether the 2006 Minerals Law adequately protects Mongolian national interests; and have engaged in long debate on how to reform Mongolia's administration of mining to ensure that foreign investment does not compromise Mongolia's perceived rights. Currently, draft amendments from government are working through the Cabinet with some parliamentary resolution expected in fall 2013. Investors indicate they want Parliament to agree on a set of laws that brings certainty and clarity to a legal environment that has been in flux for years.

Proposed Amendments to the 2006 Minerals Law

In December 2012, the President of Mongolia offered amendments to the 2006 Minerals Law. Initial public and industry response was quite negative, and the president withdrew the draft from consideration; however, many of its concepts remain in the GOM policy documents being used to draft amendments for the fall 2013.

Both domestic and foreign investors have unanimously and unambiguously responded negatively to these amendments. They argue that the amendments grant the government broad and vague discretionary authority to revoke exploration and mining rights without meaningful checks on these powers; and impose taxes and fees, development obligations, and production, management, and employment practices that may render commercial mining impossible in Mongolia.

Recent Amendments to the Practice of Law in Mongolia

In 2012, Parliament amended the *Law on Lawyers*, adding new restrictions on foreign-owned and operated law offices. Previously, law offices could be owned and operated by foreign lawyers and parties. Entering into effect January 2014, the amendments require foreigners to pass the Mongolian bar examine as a condition of owning or operating law firms in Mongolia.

Completing Reform of the Securities Law of Mongolia

Essential reforms to the *Securities Law of Mongolia* remain incomplete. Most observers see the current law as insufficient and obsolete, and the consensus is that an up-to-date law would:

- Formally distinguish between beneficial owners and registered owners.
- Allow for Custodians (financial institutions with legal responsibility for investors' securities).
- Institute new rules that would allow companies *listed* on the Mongolian Stock Exchange (MSE) to list their shares on other exchanges.

An amended securities law, consistent with practices, regulation, and statue used by other exchanges, will allow Mongolia to list and raise capital for important projects, such as Oyu Tolgoi and Tavan Tolgoi. Without such a law, Tavan Tolgoi and other public and private investments will face severe impediments to raising capital and valuing assets.

Amendments to the current Securities Law are currently before the Cabinet but are not expected to work their way through Parliament before mid-2013.

Oyu Tolgoi on Scheduled to Commence Operations in Mid 2013

In October 2009, the GOM, Ivanhoe Mines of Canada, and Rio Tinto signed investment and share-holders agreements for the Oyu Tolgoi (OT) copper- gold deposit located in Mongolia's South Gobi desert. The OT agreements vest the government of Mongolia with 34% ownership of the project and provide guarantees for local employment and procurement. With estimated development costs in excess of US $7 billion and a 40-year plus mine-life, OT is conservatively expected to double Mongolia's annual GDP by the time it reaches full production. With construction on the open-pit operation completed and power infrastructure with China in place, initial production of copper concentrate commenced in the first quarter of 2013.

Most observers of Mongolia's investment climate still consider this agreement the landmark foreign and domestic investment in Mongolia. The consensus is that the OT agreement:

- Shows Mongolia can say **Yes** to key projects undertaken with foreign involvement and investment;
- Confirms GOM commitment to compensating private rights holders of most deposits considered strategic under the 2006 Minerals Law;
- Demonstrates GOM willingness to amend laws and regulations to enhance and ensure the commercial viability of mining projects.

The positive message of the OT for investors should not be underestimated. Its passage is largely considered responsible for spurring progress on other mining projects and for these projects successful listing on foreign stock exchanges.

However, since 2010 some within the GOM and Parliament have sought to re-open the OT Investment Agreement (IA) that sets the project's legal, tax, and regulatory regime for the next few decades. The issue came to a head in August 2011 when members of Parliament and a broad array of Mongolian public and private entities demanded that the GOM void the agreement, claim a larger ownership share of the project, and impose higher royalties. The National Security Council of Mongolia (NSCM)—composed of the President of Mongolia, Prime Minister, and Speaker of Parliament—unilaterally and unanimously declared that the GOM and Parliament would honor the existing agreement without exception in September 2011. Although the NSCM lacks constitutional or statutory power to bind Parliament to any particular course of action on OT, its statement eased investor fears that the Mongolian government would not keep its commitments.

The NSCM's statement quelled the discussion until September 2012, when twenty-three (23) Members of the newly elected Parliament petitioned the government to renegotiate OT IA. Concerted action by OT LLC, diplomatic missions, and elements of the GOM and Parliament produced agreement to review the issues of concern in a more formal, less acrimonious way. Absent an explicit GOM commitment to honor the IA, the business community questions the sanctity of contracts in Mongolia. Left unaddressed, uncertainty over OT's future may raise investor risk perceptions and limit FDI in Mongolia, thus inhibiting development and employment from the resource sector.

Uranium and Environmental Laws Negatively Affect Investor Rights

The 2009 Nuclear Energy Law of Mongolia (NEL)

In 2009, Parliament imposed significant new controls on mining and processing uranium (and on some rare earths) in Mongolia. The NEL created a new regulatory agency, the Nuclear Regulatory Energy Agency of Mongolia (NEA), and a state-owned holding company, MonAtom, to hold and manage assets that the government acquires from rights holders. NEL imposes several conditions:

- Requires all holders to register uranium exploration and mining licenses with the NEA;
- Requires investors to accept that the Mongolian state has the right to take -- without compensation -- at least 51% of the mining enterprise -- as opposed to mining rights -- as a condition for developing any uranium property;

- Imposes a uranium-specific licensing, regulatory regime independent of the existing regulatory and legal framework for developing mineral and metal resources. Prior to the Nuclear Energy Law, exploration licenses gave their respective holders the rights to discover and develop any and all mineral and metal resources discovered within that license area. (This does not include petroleum resources, which are governed separately). According to GOM officials, this law lets the state issue a distinct license for uranium exploration on a property otherwise dedicated to other mineral and metals exploration.

New Laws Affecting Mining Activities in Water Basins and Forested Areas

In May 2012, Parliament passed a suite of environmental legislation:

- Law on Air
- Law on Air Pollution Fees
- Law on Soil Protection and Prevention of Desertification
- Law on Waste
- Law on Forest
- Law on Water
- Law on Animals
- Law on Natural Resource Use Fees
- Law on Water Contamination
- Law on Environmental Impact Assessment

Because regulations for these new laws are not yet promulgated, neither we nor observers know how they will impact projects in Mongolia. However, it is clear that the Water Law and the Forest Law have effectively replaced the 2009 *Law on Prohibition of Minerals Exploration and Mining Activities in Areas in the Headwaters of Rivers, Protected Water Reservoir Zones and Forested Areas*, more colloquially known as the *Law with the Long Name (LOLN).* The LOLN imposed the following on mining projects:

- Revoked or modifies licenses to explore for or mine any and all mineral resources within an area no less than 200 meters from water and forest resource.

- Required the government to compensate rights holders for exploration expenses already incurred or revenue lost from actual mining operations.

- Empowered local officials to determine the actual areas which can be mined. In effect, the local official can extend the 200 meter minimum at his discretion.

The new laws appear less proscriptive regarding mining activities near water basins and forests; and apparently allow discretion for local and regional authorities, working in concert with the central government, to determine where and when extractive and industrial activities can occur near environmentally sensitive areas. While the 200 meter minimum appears as something of guideline in the two new laws, the new legislation, unlike the LOLN, does allow for flexibility in the imposition of the 200 meter setbacks. Investors are waiting if pending regulation will confirm this flexible concept.

Revisions of the Mongolian Tax Code

Revocation of Double Taxation Treaties (DTTs)

Mongolia is leaving its DTTs with the Netherlands, Kuwait, Luxembourg, and the United Arab Emirates; and may do so for all other DTTs it maintains. The GOM argued (with some correctness) that many companies using these DTTs were not actually headquartered in the nations with bilateral DTTs and were using the treaties to avoid taxation in Mongolia, denying Mongolia substantial revenues. The GOM asserted that it would not have entered into these treaties if it had fully understood their implications, although the IMF had long advised the GOM to be wary of DTTs impact on revenues.

Foreign and Mongolian domestic investors have strongly criticized the government and parliament for revoking key DTTs. Viewed from the context of the recently passed Strategic Entities Foreign Investment Law (SEFIL), the chronic attempts to change the OT Investment Agreement and moves to amend other laws affecting investment in Mongolia, investors argue that revoking DTTs sends a clear message that Mongolia does not fully respect contractual or treaty obligations

Other Tax Code Issues

The 2007 code taxes all salary and wage income at 10% while allowing interest income from securities and capital gains to be tax free until 2013. As of January 2013, all types of income will be taxed at a rate of 10%.

Businesses are taxed at 10% for profits less than 3 billion Tugriks (US$ 2.2 million) and at 25% for any profit 3 billion Tugriks or above. The Value Added Tax (VAT) is currently10%. Mongolia also imposes a variety of excise taxes and licensing fees upon a variety of activities and imports.

Mongolia also imposes a 20% withholding tax on interest earned on foreign-held, interest-bearing banking accounts and other deposit types.

The OT project has had a salutary effect on key tax provisions long-desired by foreign and domestic investors alike. Before OT, firms could only carry-forward losses for two (2) years after incurring the loss. While most businesses approved of this provision, many, especially those requiring large and long-term infrastructure development, noted that the two year carry-forward limit was insufficient for projects with long development lead times, as is typical of most large-scale mining developments. As a condition precedent of passing the OT Agreement, Parliament extended loss-carry forward to eight (8) years.

On the down side, Mongolia's Parliament has revoked and refuses to reinstate an exemption available on value-added taxes (VAT) of 10% on equipment used to bring a given mine into production, except on equipment to be used in the production of highly processed mining products.

Most jurisdictions, recognizing that mines have long development lead times before production begins, either waive or impose no tax such on imports at all. Parliament, with no consultation with investors, international experts, or its own tax officials, chose to impose the VAT, which immediately makes Mongolian mining costs 10% higher than they would otherwise be, impairing competitiveness and dramatically varying from global practice. Whether any mining output qualifies for this exemption seems completely at the discretion of the GOM, which has not set out in regulation or statute a process by which it will regularly adjudicate such VAT exemption requests.

Unfinished Business with Administering Taxation (and other functions)

International financial institutions and foreign and domestic investors report that enhancing Mongolia's business environment requires that reform must also include improving how key agencies—the tax department, the customs administration and the inspections agency—interact with firms and individuals.

Specifically, many investors have reported increasingly abusive enforcement by elements of the Tax Authority, the Anticorruption Agency, and the National Police in 2012. Officials show up unannounced, and without formal writs authorizing their activities, accuse the business of committing some sort of tax fraud or other abuse, and order immediate payment or compliance with demands. If the business refuses to comply, insisting on its rights under law and regulation, the officials immediately threaten to turn the case over to the Anticorruption Agency or the National Police—an act which can lead to seizure of assets, closure of the business, and detention or arrest of personnel while under investigation. In some cases, officials have followed through on these threats. Because the law lays out no clear way to determining when a matter is criminal or civil, officials have discretion on how to proceed, raising the perception of risk among investors.

Public Private Partnership/Concession Law

In 2010, Parliament passed legislation authorizing the government to tender concessions for certain functions and to enter into public-private partnerships (PPPs) in a variety of areas. Hundreds of separate projects—ranging from key power projects to major rail expansions to the north, east, and south to education centers—are listed as available for private entities to engage with the GOM.

The GOM aims to enlist private industry to support social and economic development by ostensibly providing commercial incentives for participation. However, while approving the concept in principle, foreign and domestic investors criticize the operative legislation.

Chiefly, potential investors relate that they see few incentives in the design of the PPPs. As currently envisioned, most Mongolian PPPs seem to allow for recovery of costs and a very limited horizon for operation (and profit generation) before the asset must be returned to the GOM. In essence, investors argue that the GOM wants them to act like fee-for-service contractors but declines to compensate as they would such a contractor.

Until the GOM amends these unattractive features, investors will likely pass on Mongolia's PPP opportunities.

The Mongolian Judiciary and the Sanctity of Contracts

Generally, investors report no concerted, systematic, institutional abuse specifically targeted at foreign investment. Issues of corruption and judicial partiality aside, observers argue that most problems reflect ignorance of commercial principles rather than antipathy to foreign investment as such. (See A. 13 for a detailed discussion of corruption in Mongolia.) In principle, both the law and the judiciary recognize the concept of sanctity of contracts. However, the practical application of this concept lags, with both foreign and domestic investors reporting inconsistent enforcement of contracts by the judiciary. This inconsistency comes from the slow transition from Marxist-based jurisprudence to more market oriented laws and judicial practices. As more judges receive commercial training and gain practical experience, observers expect gradual improvement of the entire judicial system.

However, hoped for improvements aside, many investors perceive that the courts will side with Mongolian disputants in strictly commercial cases involving business to business disputes, regardless of relevant laws, regulations, and contractual obligations. (See Chapter A.4 for a discussion of the role of the judiciary in dispute settlement.).

Concerns over Exit Visas

Regularly reported since 2010, Mongolian public and private entities continue to abuse the exit visa system to pressure foreign investors to settle civil and commercial disputes. Immigration officials normally issue a *pro forma* but required exit visa at the port of departure (e.g. the international airport), but may deny or revoke an existing visa for a variety of reasons, including civil disputes, pending criminal investigations, or for immigration violations. If denied for a civil dispute, the visa may not be issued until either the dispute is resolved administratively or a court has rendered a decision. Neither current law nor regulation establishes a clear process or time-table for settlement of such issues. Nor does the law allow authorities to distinguish a criminal and civil case when detaining a person. In fact, the Mongolian government maintains the right to detain foreign citizens indefinitely without appeal until the situation has been resolved.

Research reveals that abuse of the exit-visa system also affects investors from countries other than the U.S. All cases have a similar profile. A foreign investor has a commercial dispute with a Mongolian entity, often involving assets, management practices, or contract compliance. The Mongolian entity responds by filing either civil or criminal charges with local police or prosecutorial authorities. It is important to note that at this point there need be no actual arrest warrant or any sort of official determination that charges are warranted: mere complaint by an aggrieved party is sufficient to deny exit.

An investor in this situation is effectively detained in Mongolia indefinitely. Some foreign investors have resolved these impasses by settling, allowing them to depart Mongolia. If unwilling to settle, the foreign investor will have to undergo the full investigatory process, which may lead to court action. Investigations commonly take up to six months, and in one case an American citizen could not depart Mongolia for over two years while under criminal investigation for a failed business deal. In addition, even if a dispute seems settled, it can be re-filed in the same venue —if the local police and prosecutors are willing—or in a different venue.

Mongolian citizens require no exit visas to depart Mongolia and can only be denied exit or detained if an actual arrest warrant has been issued.

Privatization Policies and Resistance of Mongolian firms to Foreign Investment

Privatization policies have favored foreign investment in some key industries, including banking and cashmere production. The bidding processes for privatizations and other tenders have generally been transparent. Although the GOM routinely announces plans, we have seen little real movement to privatize state holdings in the aviation, telecommunications, power, and mining sectors. Ongoing GOM acquisitions of mining assets– especially in uranium, rare earths, and coal – indicates that the GOM will expand the state's role in some areas.

That said, the GOM continues with plans for initial public offerings (IPO) for certain state-owned power, infrastructure, and mining holdings. It has stated that funds from such IPO's will be used to underwrite these projects and to pay for needed infrastructure. To date, the IPO discussion has not moved beyond the conceptual level. The GOM had told the Mongolian public and investors that it will hold an international IPO for at least one mining asset, specifically the world-class Tavan Tolgoi (TT) coking project as early as spring, 2013; and has sought advice from international investment advisors to achieve this end. However, beyond talk of IPO's, the GOM has made insufficient progress to create a functional coal mine at TT that could be capitalized through an IPO.

While most observers believe a TT IPO is viable in the long run, the GOM's 2013 time table has been seen as too ambitious, given that TT remains an undeveloped, remote Gobi site with little infrastructure, owned by a government that has no track record in bringing such projects into operation.

Mongolian Businesses vs. Foreign Direct Investors

Other than the limitations imposed by the *Strategic Entities Foreign Investment Law of 2012 (SEFIL)*, foreign companies and investors are subject to the same legal regime imposed on Mongolian domestic firms regarding incorporation and corporate activities.

Generally, Mongolian private businesses seek foreign participation and equity in all sectors of the economy. However, some Mongolian businesses use Mongolian institutions to stop competitors, if they can. These actions represent no animus against foreign investment as such; rather, they reflect individual businesses desire to keep competitors, Mongolian or foreign, at bay.

Key Investment Laws

Foreign Investment Law of Mongolia

The Foreign Investment Law of Mongolia (FILM)—not to be confused with the SEFIL of 2012—transformed the anti-business environment of the socialist era into today's regime. Under the old system, everything not provided for in law was illegal. Because such economic activities as franchising, leasing, joint venture companies were not specifically mentioned in earlier Mongolian statutes, they were technically illegal. In 1993, the GOM enacted FILM to legalize all manner of foreign investment in Mongolia (amended in 2002 to allow for representative offices and franchises).

This law and its subsequent amendments define broad ranges of activity that would otherwise have limited validity under Mongolian law. It also defines the meaning of foreign investment under the civil code without limiting activities that foreign investors can conduct. FILM also establishes registration procedures for foreign companies: The law requires investments with 25% or more of FDI to register as foreign-invested firms. The law created a supervisory agency, the Foreign Investment and Foreign Trade Agency (FIFTA), that ran the registration process, liaised among businesses and the Mongolian government, and promotes in- and out-bound investments. Under the Terms of SEFIL and 2012 re-organization of the GOM, FIFTA was abolished and its functions transferred to the newly-created the Foreign Investment Regulation and Registration Department (FIRRD) under the new Ministry of Economic Development.

In 2008, the Parliament of Mongolia amended FILM. The stated intent of the revision was to improve FIFTA's—now FIRRD's— ability to track foreign investment and to enhance services to foreign investors. The 2008 FILM requires foreign investors to invest a minimum of US$100,000 and imposes a series of requirements on foreign investors seeking registration. Registered foreign companies must have FIRRD certify that their by-laws, environmental practices, their technologies, etc., comply with standards determined by FIRRD.

Since FILM's passage, foreign investors have expressed concern over what they perceive as the government's broad and seemingly un-transparent regulatory authority. As with its predecessor FIFTA, FIRRD officials report that procedures are still under evaluation and development but investors continue to claim that this drafting process lacks transparency and offers them no clear way to comment upon regulations that will affect investments. Investors still tell us that they do not know the exact standards FIRRD will apply for any given investment; how it will determine those standards; and how an investor might seek redress if FIRRD denies a registration request.

Ministerial Structure Related to Foreign Investment

As a result of the parliamentary elections of 2012, the current structure of government has changed. The government has expanded from 13 ministries to 16. The principle change affecting foreign investors has been the creation of the Ministry of Economic Development (MED). The new government transferred all trade and investment related functions from the former Ministry of Foreign Affairs and Trade (MFAT) to MED. MED now administers FDI in Mongolia. The independent trade promotion agency FIFTA, formally housed under the now defunct MFAT, has become FIRRD, under the explicit authority of MED. FIRRD is the frontline administrator for SEFIL. MED also has the remit to develop trade policy and conduct trade-related negotiations with other nations; and crafts, coordinates and assists with the implementation of all government economic development policies and projects. For those investors not affected by SEFIL, the new structure should not affect the day-to-day conduct of their businesses.

Mongolia's Ranking as a Place to Do Business

Measure	**Year**	**Index/Ranking**
TI Corruption Index on *Corruption Perceptions:* (http://cpi.transparency.org/cpi2012/results/)	2012	*36/100*
Heritage Economic Freedom (http://www.heritage.org/index/country/mongolia)	2012	*World Ranking*:**81/179** *Freedom Score*: 61.5
World Bank Doing Business (http://www.doingbusiness.org/data/exploreeconomies/mongolia)	2012	Doing Business: 86/185
	2013	Doing Business: 76/185
MCC Government Effectiveness: http://www.mcc.gov/documents/scorecards/score-fy13-mongolia.pdf	FY 2013	-0.17 (34%)
MCC Rule of Law	FY 2013	0.12(66%)
MCC Control of Corruption	FY 2013	-0.16 (25%)
MCC Fiscal Policy	FY 2013	-2.4 (67%)
MCC Trade Policy	FY 2013	79.8 (72%)
MCC Regulatory Quality	FY 2013	0.12 (66%)
MCC Business Start Up	FY 2013	0.988 (94%)
MCC Land Rights Access	FY 2013	0.66 (39%)
MCC Natural Resource Protection	FY 2013	69.3 (69%)

Conversion and Transfer Policies

Return to top

Foreign and domestic businesses generally report no regular problems converting or transferring investment funds, profits and revenues, loan repayments, or lease payments into whatever currency they wish to wherever they wish.   There usually is no difficulty in obtaining foreign exchange, although large transactions may be affected by availability of the required currency.

Current law requires all domestic transactions be conducted in Mongolia's national currency, the Tugrik, except entities granted limited waivers for non-Tugrik transactions by the Mongolia's central bank, the Bank of Mongolia (BOM). Businesses report no regular delays in remitting investment returns or receiving in-bound funds. Transfers generally require 1-2 business days or, at most, a single business week. (For details on

Mongolia’s conversion and transfer policies, please refer to the Bank of Mongolia: http://www.mongolbank.mn/eng/default.aspx.)

Ease of transfer aside, foreign investors note Mongolia’s lack of regular access to mechanisms for facilitating trade and investing cash balances. Letters of credit are difficult to obtain, and legal parallel markets in the form of government dollar or Tugrik-denominated bonds or other instruments for investing cash in lieu of payment are nascent. In regard to the latter, the government auctioned 270 billion Tugriks (US$ 200 million) of 12- and 28-week bills in December and has scheduled weekly auctions in the first half of 2013.

Because these mechanisms are in their early days, the immediate impact of their lack has been to limit access to certain types of foreign capital, as international companies resist maintaining cash balances in Mongolian banks or in local debt instruments. That said, the government of Mongolia, the BOM, and several donor agencies are continuing efforts to develop and deploy such instruments by 2013.

Expropriation and Compensation

Return to top

Mongolia has generally respected property rights as they apply to most asset types. However, investors suggest that the *2012 Strategic Entities Foreign Investment Law of Mongolia* (SEFIL) limits foreign ownership of assets and use rights in three strategic sectors, among them natural resource extraction. Investors suggest that SEFIL may require foreign investors to seek local partners and source goods and services locally. This legislation is consistent with, and represents a continuation of, actions that represent both “creeping expropriation” and explicitly expropriatory acts sanctioned through force of law, especially but not exclusively limited to the resource extraction sector.

Expropriatory Aspects of the Strategic Entities Foreign Investment Law (SEFIL)

Investors suggest that some of SEFIL’s provisions seem expropriatory. Of particular concern, investors worry that the GOM will retroactively apply SEFIL to foreign investments made before the law entered into force and will force companies to divest assets to come into compliance, with no apparent provision made to compensate investors for losses incurred to comply with SEFIL. Given these negative perceptions, investors have stated that a definitive and official clarification from the government of Mongolia would quell persistent doubts. For a fuller description of SEFIL’s provisions see Chapter A.1.

Security of Ownership

The U.S.-Mongolia Bilateral Investment Treaty (BIT) entered in force in 1997, and specifically enjoins both signatories from expropriatory acts against private property and investments. In addition, both Mongolian law and the national Constitution recognize private property rights and the rights associated with its use, and specifically bar the government from expropriating such assets. To date, the government of Mongolia (GOM) has not expropriated any American property or assets. However, observers suggest that the GOM’s use of the Nuclear Energy Law to revoke a Canadian company’s uranium exploration rights without compensation is expropriatory; and infer from this action that GOM will revoke use rights and resist compensating companies for revocations. (For a copy of BIT: http://www.state.gov/e/eeb/ifd/43303.htm.)

Like most sovereigns, the Mongolian government may exercise eminent domain in the national interest. Under the current land law, Mongolian state entities can claim land or modify use rights for the following purposes:

- Lands under special government protection;
- Land near national borders;
- Lands given for ensuring national defense and security;
- Land given to foreign diplomatic missions and consulates, as well as resident offices of international organizations;
- Land for scientific and technological tests, experiments and sites for regular environmental and climatic observation;
- Aimag level reserve rangelands;
- Hayfields for government fodder reserves.
- Contracted petroleum exploration sites to be utilized according to product sharing contracts;
- Free trade zone areas.
- Building and using nuclear reactors.
- Governors of aimags, Ulaanbaatar Capital City, and soums may take land for special needs of the local government for the purposes referred to in provisions of the law.
- Land belonging to any classification of the unified land territory may be taken for special needs.

Investors have expressed little disagreement with most of these categories but express concern over the taking of land for *special needs* by local municipal governments and provincial administrations. As the relevant statutes do not definitively define what constitutes *special needs*, officials have broad discretion in determining what is and is not a *special needs zone*.

With regard to the issuance of both exploration permits and mining licenses, observers routinely report that provincial officials use their authority arbitrarily to block access to mining rights legally granted under the current law. For example, reports regularly circulate that some provincial government officials use their authority to designate land as *special needs zones* to usurp mining exploration tenements. Commonly, provincial governors often reclassify property that has never felt the touch of the plow or felt the tread of a tourist for agricultural use or cultural tourism respectively, although the central government has legally granted exploration rights to miners.

Other investors criticize seemingly arbitrary use of the local officials' rights to "comment" on permits for water use and mining licenses. Under the current law, comments are advisory, and have limited legal force to disallow activity, but the central government hesitates to reject a governor's negative comment no matter the motives behind it. The effect has been to stop progress for months, limiting access to the resource and costing rights holders' time and money. Whatever the motive, investors see these actions as creeping bureaucratic expropriation through denial of access and use rights.

The 2006 Minerals Law provides no clear limit on provincial control of permits and special use rights or guidance on how to apply these powers beyond codifying that the provincial and local authorities have some authority over activities occurring in their provinces and soums (counties). Faced with these unclear boundaries of authority, the central government often interprets the rules and regulations differently from the provincial authorities, creating administrative conflicts among the various stakeholders. The central government acknowledges the problematic ambiguity but has yet to clarify the situation in law or practice. Mongolian and foreign permit holders have advised the government that letting this problem fester raises perceptions among investors that they may risk losing their economic rights.

I: Expropriatory Potential of the Current Minerals Laws

2006 Minerals Law

Investors suggest that the Minerals Law potentially denies access to use rights without formally revoking these rights. The law does not allow the GOM to usurp rights to explore and exploit natural mineral, metal, and hydrocarbons resources per se. Instead, the law imposes procedural requirements and grants powers to central, provincial, and local officials - powers that, if abused, might prevent mineral license holders from exercising their exploration or mining rights.

An example is the tender process for apportioning some exploration rights. The old law awarded exploration rights on a "first come, first served" basis, a process that gave little discretion to government officials to intervene. The current law establishes a different procedure for obtaining exploration rights on land explored with state funds or lands where the current holder has forfeited exploration rights. The Mineral Resources Authority of Mongolia (MRAM) will tender such exploration rights only to firms technically qualified to conduct minerals work.
The current tender procedure neither requires nor allows for cash bids. Ostensibly, only the technical merits of exploration proposals will determine who gains exploration rights. MRAM staff has the authority and responsibility to assess the merits of proposals to determine who wins the tenders.

Both MRAM and its new supervising authority, the recently created Ministry of Mining, have broad discretionary authority to select who wins exploration rights. Under the current system, a company can prospect virgin territory and scope out a potential exploration site, only to risk losing the site should MRAM decide to auction those rights to other exploration companies. This power disturbs miners, who see it as a potential source of corruption and arbitrary decisions by MRAM.

Expropriatory Potential of the 2009 Nuclear Energy Law (NEL)

The NEL requires investors to accept that the Mongolian state has the absolute right to a free-carried share of no less than 51% of the mining company that will develop and operate the mine as a condition of being allowed to develop any uranium property. (For a review of the NEL's key provisions, see Chapter A.1.)

Many foreign and domestic investors consider this non-compensated acquisition of uranium assets as form of statutorily-sanctioned expropriation, which heretofore had not been practiced by the government of Mongolia. Although the Minerals Law, other relevant laws, and the Constitution of Mongolia state that the GOM must compensate rights holders for any taking, the NEL gives the GOM the right to take uranium holdings with no obligation to compensate rights holders. Complicating the issue is that the law seems to conflate the deposit and the company mining it, allowing the GOM to claim an uncompensated share in any such entity. In effect, the GOM is demanding a free-carried, non-compensated interest of no less than 51% of any uranium mine. The GOM has stated that this licensing regime also applies to deposits of radioactive rare earths.

Observers argue that ongoing implementation of the NEL validates fears of expropriation.   In 2010, the GOM acted against a Canadian company in what observers defined as a taking of the company's rights to develop a uranium deposit without apparent due process or compensation. The GOM has vested those rights in a Russian-Mongolian state-owned company. The Canadian firm has sought to settle its claims through international arbitration and expects a decision in 2013.

National Security Concerns May Lead to Loss of Rights

In 2010, the President of Mongolia used his authority as head of the National Security Council of Mongolia (NSCM) to suspend the issuance and processing of both mining and exploration licenses. He argued that the flaws of the licensing regime constituted a threat to national security that justified the NSCM suspending issuances. Domestic and foreign investors and Mongolian government officials disputed this moratorium, claiming that neither the President nor the NCSM had neither constitutional nor statutory authority to supersede the government's regulatory authority over mining. A constitutional crisis was only averted when Parliament imposed a moratorium on the issuance of the certain types of mineral licenses. Having expired at the end of 2012, parliament extended the moratorium through 2013, pending amendments to 2006 Minerals Law.

Since this initial move, the NSCM has made additional forays into regulating commercial activities. In 2011, NSCM powers were formally used to assure that the Mongolian state would honor the OT investment agreement and reject a proposed consortium agreement for the Tavan Tolgoi coking coal project. Observers also noted that the NSCM had informally involved itself in specific mining projects centering on coal conversions, urging that licenses and use rights be revoked or granted for national security reasons. In all cases, NSCM justified its involvement by claiming that neither Parliament nor the GOM would be able to render appropriate, timely decisions on the projects in question, necessitating definitive action by the NCSM on the grounds that lack of action constituted some sort of national security threat.

No NSCM, to our knowledge, has used its power so broadly and publicly to intervene in activities not normally associated with national security. GOM officials have explained that the powers granted to the NSCM are quite broad and without any apparent institutional limit in emergency situations. However, these same officials claim that neither the OT agreement, nor TT, nor mining licenses, nor specific commercial or state-owned projects rise to the level of national security threat as defined by statute. Consequently, it seems the NSCM has no statutory or constitutional remit to act in areas clearly the responsibility of either the government or Parliament.

Investors remain ambivalent over NSCM interventions into the commercial realm. On the one hand, they are relieved that at least one Mongolian institution has acted to stabilize important national projects (OT and TT) and associated rights. On the other hand, they question the practicality of subjecting regional and local projects or such day to day activities as issuing permits and licenses to a highly-politicized, non-transparent set of security criteria more appropriate to mega projects.

How the Amendment Process Affects Mineral Rights

Going into 2013, investors remain concerned that merely proposing amending a given law seems to freeze, or at least significantly slow, the Mongolian regulatory process; which consequently threatens exercise of rights granted under current law. For example, the ongoing amendment process to the 2006 Minerals Law has adversely affected the regime for issuing exploration and mining licensing.

In 2010, the President of Mongolia announced his concerns about the existing licensing regime, which set into motion an amendment process for the entire law. This process, well into its third year, has produced numerous draft amendments between the government and Parliament. Although the 2006 Minerals Law remains in force, officials at all levels delay, or openly refuse to process, normal requests for extending or issuing exploration and mining licenses. They justify delay and refusal by stating that the amendment process renders the current law "effectively" invalid because any act may face *post facto* changes under a new statute. In certain cases, we have reliable reports of officials threatening to revoke currently valid licenses under the pretext that such would be "illegal" under draft legislation—that is, un-ratified amendments.

Overall, business observers suggest that the amendment process for mining and other laws has generated lengthy and costly bureaucratic delays for many commercial sectors, especially in mining; and thus raised the perceived risk that officials will reject permits and licenses executed in good faith under valid laws under the pretext that the law will change in the future.

Dispute Settlement Return to top

Observers indicate that the GOM inconsistently supports transparent, equitable dispute settlements. These inconsistencies largely stem from both a lack of experience with standard commercial practices and the opportunistic targeting of foreign investors by some public and private entities. The framework of laws and procedures is functional, but many judges and officials remain ignorant of commercial principles as well as partial to Mongolian plaintiffs and defendants in disputes with foreign investors.

Problems with Dispute Settlement in Mongolia's Courts

Court structure is straightforward and can support dispute settlement. Disputants know the procedures and the venues. Mongolia does not use juries in court proceedings; rather, plaintiffs bring cases at the district court level before a single district judge or a panel of district judges, depending on the complexity and importance of the case. The district court renders its verdict. Either party can appeal this decision to the Ulaanbaatar City Court, which rules on matters of fact as well as matters of law. It may uphold the verdict, send it back for reconsideration or vacate the judgment. A disputant may then take the case to the Mongolian Supreme Court for a final review. Matters regarding the constitutionality of laws and regulations may be taken directly before the Constitutional Court of Mongolia (the *Tsetz*) by Mongolian Citizens, Foreign Citizens, or Stateless Persons residing legally in Mongolia.

Problems with dispute resolution arise for several reasons. First, commercial law and broad understanding of it remain in flux in Mongolia. It has become necessary to pass new laws and regulations on contracts, investment, corporate structures, leasing, banking, etc., because generally Mongolian civil law does not work from precedents but from application of the statute as written. If a law is vague or does not cover a particular commercial activity, the judge's remit to adjudicate can be severely limited or non-existent. For example, until recently leasing did not exist in the Mongolian civil law code as such, but seemed to be covered under various aspects of Mongolian civil law regarding contracts and other agreements. But judgments on leasing made under these laws might not have applied to an arrangement not otherwise specifically recognized under its own exclusive law. Further, because precedents are not legally relevant or binding on other judges and Mongolian courts, decisions reached in one case have no legal force in other suits, even when the circumstances are similar or even before the same court and judges.

In addition, many judges lack training in, or remain ignorant of, commercial principles, in some cases willfully. Most observers argue that this view is not a problem of the law but of faulty interpretation. For example, they dismiss such concepts as the sanctity of contracts. In several cases courts have misinterpreted provisions regarding leases and loan contracts, allegedly intentionally in some cases. Judges regularly ignore contract terms in their decisions. If someone defaults on a loan, the courts often order assets returned without requiring the debtor to compensate the creditor for any loss of value. Judges routinely assert that the creditor has recovered the asset, such as it is, and that is enough. Bad faith and loss of value simply have no formal standing in judicial calculations of equity.

Judicial and Arbitral Prejudice Against FDI

Investors inform us of numerous and consistent accounts where rulings apparently ignore contract terms. Further, the judges adjudicating such cases have told investors or to third party intermediaries that such decisions are justified based on the foreign identity of the plaintiff or defendant. Examples of arguments include: the foreign investor can afford the loss; the foreigner must be stealing from Mongolia in some way and so deserves to lose; or that Mongolian judges must support Mongolians or risk being accused of being unpatriotic. While the validity and accuracy of these claims is difficult to assess, the number and consistency of the complaints suggest that that Mongolia's judiciary is not treating foreign investors equitably

Bankruptcy and Debt Collection

Mongolia's bankruptcy provisions and procedures for securing the rights of creditors need comprehensive reform. Mongolian law allows for mortgages and other debt instruments backed with securitized collateral. However, rudimentary systems for determining title and liens and for collecting on debts make lending on local security risky. Banks frequently complain that onerous foreclosure rules are barely workable and unfair to creditors.

Although a system exists to register immovable property—structures and real estate—for the purpose of confirming ownership, the current system does not record existing liens against immovable property. Nor does a system currently exist to register ownership of, and liens on, movable property. Consequently, lenders face the added risk of lending on collateral that debtors may not actually own or which may have already been pledged as security for another debt.

Since 2008, the Millennium Challenge Corporation (MCC) has worked with the GOM to create a modern and efficient property registration regime. The project is expected to increase access to loans and property investment for households. In addition, the project aims to streamline the business registration process and reduce the time and cost of property registration. The urban component of the MCC-funded Property Rights project has improved Mongolia's property registration system and helped households obtain title to land in urban "ger" districts. The project is working in eight provinces and in the capital city of Ulaanbaatar. Progress to date includes the renovation of eleven property registry buildings, training of citizens and officials, the digitization of some 7.5 million pages of land registry records, and the strengthening of cadastral mapping capacity. For program details: http://www.mca.mn/?q=eng/Project/PropertyRights.

Overall, the legal system does recognize the concept of collateralized assets as security for loans, investment capital, and other debt-based financial mechanisms. The legal system also provides for foreclosure, but this process is exceptionally bureaucratic and time consuming. Waits of up to 36 months for final liquidations and settlement of security are not uncommon.

Bankruptcy is an option on paper, but we can offer no example of a successful bankruptcy process. Indeed, local law firms suggest that the process is so apparently vague and onerous that the option is more a theoretical concept than practical step to wind down a business.

Purchase financing remains tricky. Numerous cases have come to our attention in which domestic and foreign distributors finance sales, complete with a local bank guarantee. Buyers subsequently default on loans, banks refuse to honor their guarantees, and the dealers take the buyer to court. Under current Mongolian law, interest payments are suspended for the duration of such a case, from first filing to final appeal before the Supreme Court of Mongolia. Thus months of interest-free time can pass while the now impounded asset wears away. In such cases, dealers simply reclaim the asset and drop the lawsuit, swallowing the lost interest payments and loss of value. Domestic and foreign businesses often respond by requiring customers to pay in cash, limiting sales and economic expansion.

Binding Arbitration: International and Domestic

The Mongolian government generally supports and has submitted to both binding arbitration and international settlement procedures. However, glitches remain in local execution. Mongolia ratified the Washington Convention and joined the International Centre for Settlement of Investment Disputes in 1991. It also signed and ratified the New York Convention in 1994.

To our knowledge, the government of Mongolia has accepted international arbitration in several disputes where claimants have asserted the government reneged on a sovereign guarantee to indemnify them or in which the government engaged in an improper taking of property or rights. In all cases the government has consistently declared that it would honor the arbitrators' judgments.

More widely, Mongolian businesses partnered with foreign investors will accept international arbitration, as do government agencies that contract business with foreign investors, rather than avail themselves of the Arbitration Bureau operated by the Mongolian National Chamber of Commerce and Industry.

Regarding the Mongolian Arbitration Bureau, foreign investors tell us they decline local arbitration, and seek redress abroad because they perceive domestic arbitrators as too politicized, too unfamiliar with commercial practices, and too self-interested to render fair decisions.

Although arbitration is widely accepted among business people and elements of the government, support for binding international arbitration has not penetrated local Mongolian agencies responsible for executing judgments. Investors routinely report that the most common problem preventing resolution of debt-driven disputes is that the State Court Enforcement Office (SCO) often fails to execute collection orders and court-ordered foreclosures.

The *U.S.-Mongolia Bilateral Investment Treaty (BIT)* entitles both U.S. and Mongolian investors to seek third country arbitration in the case of business disputes.

Performance Requirements and Incentives

Return to top

Mongolia has traditionally imposed few performance requirements on, and has offered few incentives to, investors. For the most part, the few requirements imposed have been neither onerous nor limited foreign participation in any sector of the economy. However, investors suggest that the recently passed 2012 *Strategic Entities Foreign Investment Law of Mongolia* (SEFIL) imposes some strict performance requirements on foreign investors in three strategic sectors.

Under the current Tax Law of Mongolia, the government of Mongolia (GOM) attempts to limit both exemptions and incentives and to make sure that tax preferences offered are available to both foreign and domestic investors. The GOM occasionally grants tax exemptions for imports of essential fuel and staple food products; or for imports in certain sectors targeted for growth, such as the agriculture sector. Such exemptions can apply to both import duties and Mongolia’s value-added tax (VAT). In addition, the GOM will occasionally extend a 10% tax credit on a case by case basis to investments in such key sectors as mining, agriculture, and infrastructure.

Revocation of the VAT Exemption

Investors view Mongolia’s treatment of exemptions as a mixed bag. On the down side, Mongolia does not exempt equipment intended for mining from the 10% value-added tax (VAT) unless the equipment will produce highly-processed mining products in Mongolia. For example, if the Oyu Tolgoi (OT) copper-gold project were to smelt copper, imported equipment supporting production of metallic copper might qualify for an exemption from the VAT. However, to promote value-added production in Mongolia, the GOM defines the production of copper concentrate as non-value-added output; and so, equipment imported to develop and operate this sort of operation would not qualify for the 10% VAT exemption. Most jurisdictions, recognizing that most mines have long development lead times before production begins, either waive or do not tax such imports at all. Parliament has chosen to impose VAT, making Mongolian mining cost 10% more than it would otherwise be, thus impairing sector competitiveness and dramatically varying from global practice.

New Royalty Regime

In 2011, the GOM formally rescinded the Windfall Profits Tax (WPT) as a condition for the GOM entering the OT agreement. OT's private investors successfully argued that they would not be able to operate OT commercially if burdened with the WPT. However, the end of the WPT represents a significant loss of revenue to the GOM; and so, Parliament passed a revised royalty scheme. The new regime imposes sliding rates on a variety of mineral and metal products, which depend on the market price of the commodity on certain world exchanges and the amount of processing the mineral or metal receives in Mongolia. The more value added done in Mongolia, the lower the increase in royalty.

More Generous Loss Carry-forward provisions

Parliament also extended the loss carry-forward period from two (2) to eight (8) years as part of the package of tax reforms made to conclude the OT Agreement. Most investors find eight years sufficient for many Mongolian investments that require long, expensive development horizons before producing any sort of profit.

Increasing Restrictions on Foreign Investment

Restrictive Aspects of the 2012 Strategic Entities Foreign Investment Law (SEFIL)

As passed, some of SEFIL's provisions seem potentially restrictive on foreign investment. The new law specifically limits the amount of FDI in the resource extraction, media, and financial sectors respectively; and subjects these investments to government and parliamentary scrutiny, which may lead to forced divesture of a given investment. (See Chapter A.1 for a discussion of the SEFIL.)

Other Restrictions on Investors

Restrictions on hiring expatriate labor aside, foreign investors currently need not use local goods, services, or equity, or engage in substitution of imports. The government applies the same geographical restrictions to both foreign and domestic investors. Existing restrictions involve border security, environmental concerns, or local use rights. There are no onerous or discriminatory visas, residence, or work permits requirements imposed on American investors. Neither foreign nor domestic businesses need purchase from local sources or export a certain percentage of output; or require foreign exchange to cover their exports.

Although there remains no formal law requiring the use of local goods and services, the GOM encourages value-added production and local sourcing of human and material inputs in Mongolia, especially for firms engaged in natural resource extraction. All Mongolian senior officials and politicians make in-country processing a consistent feature of their public and private policy statements regarding the development of mining. For example, the new royalty scheme offers reduced royalty rates for companies that do more value-added processing in Mongolia. Government talks on coal production constantly feature discussions of power generation and coals-to- liquid processing in Mongolia. Government plans also call for increased investment in businesses and activities that keep the "value" of a resource in Mongolia. Consequently, companies should continue to expect the GOM to press aggressively for value-added production in Mongolia.

Generally, foreign investors set their own export and production targets without concern for government imposed targets or requirements. There is no requirement to transfer technology. As a matter of law, the government generally imposes no offset requirements for major procurements. Certain tenders and projects on strategic mineral deposits may require agreeing to specific levels of local employment, procurement, or to fund certain facilities as a condition of the tender or project, but as matter of course such conditions are not the normal approach of the government in its tendering and procurement policies.

Investors, not the Mongolian government, make arrangements regarding technology, intellectual property, and similar resources and may generally finance as they see fit. Foreign investors currently need sell no shares to Mongolian nationals. Equity stakes are generally at the complete discretion of investors, Mongolian or foreign—with key exceptions for investments affected by SEFIL and *strategic* mining assets, as discussed below.

Although Mongolia imposes no statutory or regulatory requirement, the GOM, as a matter of foreign policy, sometimes negotiates restrictions on what sort of financing foreign investors may obtain and with whom those investors might partner or to whom they might sell shares or equity stakes. These restrictive covenants will most likely be imposed in certain sectors where the investment is determined to have national impact or national security concerns, especially in the key mining sector.

Regarding employment, investors can locate and hire workers without using hiring agencies—as long as hiring practices are consistent with Mongolian labor law. However, Mongolian law requires companies to employ Mongolian workers in certain labor categories whenever a Mongolian can perform the task as well as a foreigner. This law generally applies to unskilled labor categories and not areas where a high degree of technical expertise not existing in Mongolia is required. The law does provide an escape hatch for all employers. Should an employer seek to hire a non-Mongolian laborer and cannot obtain a waiver from the Ministry of Labor for that employee, the employer can pay a monthly waiver fee per employee per month. Depending on the importance of a project, the Ministry of Labor may grant an employer a 50% exemption of the waiver fees as an incentive.

Increasing Performance Requirements

Requirements Imposed by the Strategic Entities Foreign Investment Law (SEFIL)

Investors have expressed concern that SEFIL apparently requires foreign investment in the targeted sectors to submit to GOM involvement in management, procurement, hiring, and other related processes and decisions. In particular, SEFIL appears to require foreign-invested entities to use Mongolian suppliers and labor. Whether this constitutes a formal requirement to use Mongolian labor and suppliers under all circumstances or whenever possible remains unclear. As many skill sets, goods, and services are not available in Mongolia, investors tell us a strict local-sourcing requirement may cripple investment in Mongolia. Given these lingering, negative perceptions, investors have stated they require clarification of SEFIL's potential performance requirements from the government of Mongolia. For a fuller discussion of SEFIL see Chapter A.1.

Requirements in the Petroleum and Mining Sectors

Performance requirements are sparingly imposed on investors in Mongolia with the exception of petroleum and mining exploration firms. The Petroleum Authority of Mongolia (PAM), now a department of the newly created Ministry of Mining, issues petroleum exploration blocks to firms, which then agree to conduct exploration activities. The size and scope of these activities are agreed upon with PAM and are binding. If the firm fails to fulfill exploration commitments, it must pay a penalty to PAM based on the amount of hectares in the exploration block, or return the block to PAM. These procedures apply to all investors in the petroleum exploration sector.

Under the 2006 Minerals Law, receiving and keeping exploration licenses depends on conducting actual exploration work. Each year exploration firms must submit a work plan and report on the execution of the previous year's performance commitments, all of which are subject to annual verification by the Minerals Authority of Mongolia (MRAM). Failure to comply with work requirements may result in fines and suspension or even revocation of exploration rights. Exploration work commitments expressed in terms of US dollar expenses per hectare per year:

- 2nd and 3rd years miners must spend no less than US $.50 per hectare.
- 4th to 6th years miners must spend no less than US $1.00 per hectare.
- 7th to 9th years miners must spend no less than US $1.50 per hectare.

Moreover, in the case of *strategic deposits*, the GOM can acquire a sliding percentage of the mine's operating entity ranging from 34% to 50%. It also requires the holder of the *strategic* asset to sell no less than 10 percent of the enterprise to Mongolian citizens on the existing Mongolian Stock Exchange (MSE). Mining companies that operate or seek to develop non-strategic deposits have reported that GOM has also vigorously pressed them to list on the MSE, although neither law nor regulation requires listing. While foreign and domestic investors and mining companies have supported the GOM's call to list in principle, they argue that they require clear, transparent guidance from the GOM on how to list on the MSE. (See A.9 and A.10 on the Mongolian Stock Exchange.)

In 2009, Parliament passed the *Nuclear Energy Law* (NEL). NEL imposed significant controls on mining and processing uranium in Mongolia and created a new regulatory agency, the Nuclear Energy Agency (NEA), and a state-owned holding company, MonAtom, to hold assets that the government acquires from current rights holders. The law imposed several conditions:

- Requires all exploration and mining licenses for uranium and some rare earths to be registered with the NEA, for a fee.

- Allows the Mongolian state the right to take—without compensation—at least 51% of the company that will develop the mine as a condition of being allowed to develop any uranium property.

- Creates a uranium-specific licensing, regulatory regime independent of the legal framework existing for mineral and metal resources. Prior to the Nuclear Energy Law, exploration licenses gave their respective holders the rights to discover and develop any and all mineral and metal resources discovered within that license area (this excludes petroleum resources, which are governed separately). According to GOM officials, the state can issue a distinct license for uranium exploration on a property otherwise dedicated to other mineral and metals exploration

Requirements Imposed on Foreign Investors Only

The Foreign Investment Law of Mongolia (FILM) requires all foreign investors to register with the Foreign Investment Regulation and Registration Office (FIRRD) and to show a minimum of US$100,000 in assets (cash, working stock, property, etc.) registered in Mongolia as preconditions for registration. Foreign investors must also pay an initial processing fee of some 12,000 Tugriks (US$8.50) and a yearly extension fee of 6,000 Tugriks (US$4.25). (For more on FIRRD, see Chapter A.1)

In addition to these fees, foreign investors must annually report on their activities for the coming year to FIRRD. Businesses need not fulfill plans set out in these reports, but failure to report may result in non-issuance of licenses and registrations and suspension of activities. This requirement differs from that imposed on domestic investors and businesses. Domestic investors have no yearly reporting requirement. Mongolians pay lower registration fees, which vary too much to say with any precision what the fees actually are.

FIRRD explains that the higher registration costs for foreign investors arise from the need to compensate for the services it provides to them, including assistance with registrations, liaison services, trouble-shooting, etc. The different reporting requirements provide the government with a clearer picture of foreign investment in Mongolia. Foreign investors are generally aware of FIRRD's arguments and largely accept them, but they question the need for annual registrations. Investors recommend that FIRRD simply charge an annual fee rather than require businesses to submit a new application each year.
Regarding reports, foreign businesses are concerned about the security of their proprietary information. Foreign investors routinely claim that agents of FIRRD use or sell information on business plans and financial data. We have yet to verify these claims, but FIRRD acknowledges that data security largely depends on the integrity of its staff, as it has few internal controls over access to investor data.

In 2012, investors complained about FIRRD's attempts to impose arbitrary requirements on foreign-invested business not otherwise specified in law. For example, FIRRD refused to issue required documents unless investors agreed to a set of FIRRD-imposed company charters, even though neither the Foreign Investment Law nor the Company Law of Mongolia requires investors to use a particular format.

Tariffs

Mongolia has one of Asia's least restrictive tariff regimes. Its export and import policies do not harm or inhibit foreign investment. Low by world standards, tariffs of 5% on most products are applied across the board to all firms, albeit with some concerns about consistency of application and valuation. However, some non-tariff barriers, such as phyto-sanitary regulations, exist that limit both foreign and domestic competition in the fields of pharmaceutical imports and food imports and exports. The testing requirements for imported drugs, food products, chemicals, construction materials, etc., are extremely nontransparent, inconsistent, and onerous. When companies attempt to clarify what the rules for importing such products into the country are, they routinely receive contradictory information from multiple agencies.

WTO TRIMS Requirements

Mongolia employs no measures inconsistent with World Trade Organization Trade Related Investment Measures (TRIMS) requirements, nor has anyone alleged that any such violation has occurred.

Right to Private Ownership and Establishment

Return to top

Generally, unless otherwise forbidden by law, foreign and domestic businesses have been able to establish and engage in any form of business activity. All businesses can start up, buy, sell, merge; in short, do whatever they wish with their assets and firms, with exceptions in the minerals and hydrocarbon, banking and finance, media and telecommunications, and real estate sectors. However, investors suggest that that the passage of the *Strategic Entities Foreign Investment Law* (SEFIL) signals Mongolia's retreat from what was once one of Asia's most liberal ownership and establishment regimes.

Strategic Entities Foreign Investment Law of 2012 (SEFIL)

Investors have indicated that SEFIL's provisions may limit the rights of private ownership and establishment that had typified Mongolia's investment regime. The new law specifically limits the amount of FDI in the resource extraction, media, and financial sectors respectively; and apparently limits how investors can buy, sell, merge, or develop assets in the affected sectors. In this respect, SEFIL appears a sea change in a heretofore fairly liberal investment regime. Given these lingering, negative perceptions, investors have stated that a definitive and official statement regarding private ownership of assets and enterprises in the sectors covered by SEFIL from the appropriate government of Mongolia entity would quell persistent doubts. For a fuller discussion of the SEFIL see Chapter A.1.

Competition from the State-Owned Sector

Mongolia passed and implemented a competition law applying to foreign, domestic, and state-owned entities active in Mongolia. As a practical matter, competition between state-owned and private businesses had been declining for the simple reason that many parastatals had been privatized. Exceptions include the state-owned power and telecom industries, a state-owned airline, the state-owned rail system (half-owned by Russia), several coal mines, and a large copper mining and concentration facility (also half-owned by Russia).

Currently, firms from Mongolia, China, Japan, Europe, Canada, and the U.S. are actively seeking opportunities for renewable and traditional power generation in Mongolia. However, few want to invest in the power generation field until the regulatory and statutory framework for private power generation firms up and tariffs are set at commercial rates.

Regarding its railway sector, Mongolia has no plans to privatize its existing railroad jointly held with the government of Russia, but current law does allow private firms to build, operate, and transfer new railroads to the state. Under this law several private mining companies have proposed rail links, and obtained licenses to construct these new lines from their respective coal mines to the Chinese border or to the currently operating spur of the Trans-Siberian Railroad.

These public-private rail projects are part of the GOM's current national rail expansion plan. The plan requires that railroads linking key coal deposits in the South Gobi desert region must first link those deposits to Russia's Pacific ports before linking with Chinese markets. Further, these projects may use international gauge used in China only after the links with Russia are completed, using Russian gauge. The GOM argues that this approach will keep Mongolia from being dependent on one market for its mining products, namely China. As construction on the Russian lines has stalled, there has been no progress on the China lines.

Some observers question the rationale and sequencing of government plans. In their collective opinion, the Chinese market, the largest and most lucrative, should be developed first, followed by (or parallel with) diversification strategies. They see few commercial and economic benefits from GOM plans.

Government Re-enters the Mining Business

Although the trend had been for the GOM to extract itself from ownership of firms and other commercial assets, the 2006 Minerals Law of Mongolia and the newer 2009 Nuclear Energy Law keep the state in the mining business. (See Chapter A.1 for fuller discussions of both laws.) Under both laws, the GOM grants itself the right to acquire equity stakes ranging from 34% up to 100% of certain deposits deemed strategic for the nation. Once acquired, these assets are vested with two state-owned holding companies respectively: *Erdenes MGL*, for non-uranium mining assets; and MonAtom for uranium resources. State mandates require these companies to use proceeds from their activities to benefit the Mongolian people.

The role of the state as an equity owner, in terms of management of revenues and operation of mines, remains unclear at this point. Many question the GOM's capacity to deal with conflicts of interest arising from its position as both regulator and owner-operator. Specifically, investors worry that the GOM's desire to maximize local procurement, employment, and revenues may comprise the long term commercial viability of any mining project.

Investors also question the GOM's capacity to execute its fiduciary responsibilities as both owner and operator of mines. In the case of its Erdenes MGL Tavan Tolgoi mining operation (EMTT), the GOM received a prepayment of US $250 million prepayment for coal from a Chinese state-owned entity. Rather than allowing EMTT to retain these funds to cover substantial start up costs, the GOM claimed the balance of the payment, US$200 million, for its Human Development Fund, which has redistributed primarily mining revenues to the Mongolian public in the form of monthly cash payments.

Throughout 2012 (and it appears into 2013), this GOM action has left EMTT chronically insolvent, thereby crippling operational activities.

Consequently, investors worry that the GOM will divert future revenues gained from mining activities—for example capital raised through initial public offerings from strategic mines—for unrelated expenses. Going forward, the GOM will likely have to provide binding assurances that it can responsibly steward company interests rather than seeing state-owned companies as nothing more than transfer mechanisms for payments to the Mongolian public.

Observers are also concerned that the GOM may waive legal and regulatory requirements for state-owned mining companies that it imposes on all others. These claims seem borne out by the GOM's treatment of state-owned EMTT. Generally, private mining firms take at least two years to submit and receive approval for relevant environmental and operating permits for coal mines in Mongolia. However, there is no indication that GOM required EMTT to follow the statutory or regulatory requirements imposed on other operations. A review of timelines suggests that the normally lengthy approval processes cannot have been followed. This preferential treatment creates the appearance that the GOM has one standard for its SOEs and another for foreign-invested and private domestic invested companies; and also the appearance that SOEs receive substantial cost advantages via a more lenient interpretation of the legal requirements.

Protection of Property Rights

Return to top

Both Mongolia's constitution and statute recognize the right to own private property, movable and immovable. Regardless of nationality (except for land, which only Mongolian citizens can own), owners can generally do as they wish with their property. One can collateralize real estate and movable property. Mongolian law does allow creditors to recover debts by seizing and disposing of property offered as collateral. The only exceptions to this liberal regime are the current mining laws and the newly passed *Strategic Entities Foreign Investment Law* (SEFIL). Both foreign and domestic investors suggest that these laws restrict how they may own and use property and property rights in the mining, banking and finance, media and telecommunications sectors.

Strategic Entities Foreign Investment Law (SEFIL)

Investors tell us they believe that SEFIL limits their property rights in violation of existing law and the Constitution of Mongolia. SEFIL appears to allow the government to intervene in daily management decisions, not to mention crucial decisions on investment, capital spending, and other key practices. Investors believe that these changes diminish property rights protections. Given these lingering, negative perceptions, investors have called for a definitive, official statement regarding protection of property rights in the sectors covered by SEFIL from the appropriate government of Mongolia entity. For a fuller discussion of the SEFIL see Chapter A.1.

Mongolia's Current Regime to Protect Creditors

Mongolia law does protect creditors but reform is needed. Although courts recognize property rights in concept, they have a checkered record of protecting them in practice. Part of the problem is ignorance of, and inexperience with, best international practices regarding land, leases, buildings, and mortgages. As noted in *Chapter A.4 Dispute*

Settlement, some judges, whether out of ignorance or apparent partiality for Mongolian disputants over foreigners, have failed to follow such practices. Newly trained judges make good faith efforts to uphold property rights but need more experience adjudicating such cases.

The legal system also allows only judicial foreclosure but bans non-judicial foreclosure for any contested foreclosure action. Because all contested foreclosure actions require court review and are subject to appeals up to the Supreme Court of Mongolia, final resolution and debt collection often takes up to 36 months.
In addition, rudimentary systems for determining title and liens and for collecting on debts make lending on local collateral risky. Banks and other creditors frequently complain that onerous foreclosure rules are barely workable and unfair to lenders. Although a system exists to register immovable property—structures and real estate—for the purpose of confirming ownership, it does not record existing liens; nor does the system record ownership and liens on movable property. Consequently, creditors risk lending on collateral that debtors may not actually own or which may have already been offered as security for other debts.

Since 2008 the Millennium Challenge Corporation (MCC) has worked with the GOM to create a modern and efficient property registration. The project is expected to increase access to loans and property investment for households. In addition, the project aims to streamline business registration process and reduce the time and cost of property registration. The urban component of the MCC-funded Property Rights project has improved Mongolia's property registration system and helped households obtain title to land in urban "ger" districts. The project is working in eight provinces and in the capital city of Ulaanbaatar. Progress to date includes the renovation of eleven property registry buildings, training of citizens and officials, the digitization of some 7.5 million pages of land registry records, and the strengthening of cadastral mapping capacity. For program details go tohttp://www.mca.mn/?q=eng/Project/PropertyRights.

Debt Collection Procedures

Even with the delays, lenders report that getting a court ruling is easier than executing the court's decision. The problem is not the law but the enforcement. A judge orders the *State Collection Office* (SCO) to move on the assets of the debtor. The SCO orders district bailiffs to seize and turn those assets over to the state, which then distributes them to creditors. However, foreign and domestic investors claim that the state collection office and the district bailiffs frequently fail in their responsibilities to both courts and creditors.

In some cases, bailiffs refuse to enforce court orders. Bailiffs are often local agents who fear community retribution if they make collection. In some cases, bailiffs will not collect unless the creditor provides bodyguards during seizure of assets. Creditors also have reason to believe that the state collection office accepts payments from debtors to delay seizure of assets.

Protection of Intellectual Property Rights

Mongolia supports intellectual property rights (IPR) in general and has protected American rights in particular. A member of the World Intellectual Property Organization (WIPO), Mongolia has signed and ratified most treaties and conventions, including the

World Trade Organization Agreement on Trade Related Aspects of Intellectual Property Rights (WTO TRIPS). WIPO Internet treaties have been signed but remain un-ratified by Mongolia's Parliament. Despite this, the Mongolian government and its intellectual property rights enforcer, the *Intellectual Property Office of Mongolia* (IPOM), make a good faith effort to honor these agreements.

Under TRIPS and Mongolian law, the Mongolian Customs Authority (MCA) and the Economic Crimes Unit of the National Police (ECU) also have an obligation to protect IPR. MCA can seize shipments at the border. The ECU has the exclusive power to conduct criminal investigations and bring criminal charges against IPR pirates. The IPOM has the administrative authority to investigate and seize fakes without court orders. Of these three, the IPOM makes the most consistent efforts to fulfill Mongolia's treaty commitments.

Problems stem from ignorance of the importance of intellectual property to Mongolia and of the obligations imposed by TRIPS on member states. Customs still hesitates to seize shipments, saying their statutory mandate does not allow seizure of such goods, but Mongolian statutory and constitutional laws clearly recognize that international treaty obligations in this area take precedence over local statutes and regulations. A clear legal basis exists for Customs to act, which has been recognized by elements of the Mongolian Judiciary, the Parliament, and the IPOM. Customs officers may occasionally seize fake products, but it seems that Mongolian customs law will have to be brought into formal compliance with TRIPS before Customs will fulfill its obligations. The ECU has also hesitates to investigate and prosecute IPR cases, deferring to the IPOM. Anecdotal evidence suggests that ECU officials fear political repercussions from going after IPR pirates, many of whom wield political influence.

The IPOM generally has an excellent record of protecting American trademarks, copyrights, and patents; however, tight resources limit the IPOM's ability to act. In most cases, when the U.S. Embassy in Ulaanbaatar conveys a complaint from a rights holder to the IPOM, it quickly investigates the complaint. If it judges that an abuse occurred, it will (and has in every case, so far) seize the pirated products or remove fakes, under administrative powers granted in Mongolian law.

We note two areas where enforcement lags. Legitimate software products remain rare in Mongolia. Low per capita incomes give rise to a thriving local market for cheap, pirated software. The IPOM estimates pirated software constitutes at least 95% of the market. The Office enforces the law where it can but the scale of the problem dwarfs its capacity to deal with it. The IPOM will act if we bring cases to its attention.

Pirated optical media are also readily available and subject to spotty enforcement. Mongolians produce insignificant quantities of fake CD's, videos, or DVD's, but import most such products from China, Russia, and elsewhere. Products are sold through numerous local outlets and regularly broadcast on private and public local TV stations. The IPOM hesitates to move on TV broadcasters, most of which are connected to major government or political figures. Rather, the IPOM raids local ("street") DVD and CD outlets run by poor urban retailers who lack the political and economic clout of the TV broadcasters. Again, when an American raises a specific complaint, IPOM acts on the complaint, but rarely initiates action.

Restrictive Aspects of Current Mining Laws

Minerals Law of 2006

Investors suggest that the Minerals Law seems to prevent transfer of exploration or mining rights to any third party lacking professional mining qualifications as determined by the Mineral Resources Authority of Mongolia (MRAM).

The concept of ***mining expertise*** can either qualify or disqualify any entity from acquiring, transferring, or securitizing exploration and mining rights. The law potentially limits the ability of rights holders to seek financing, because it forbids transfer of mining licenses and exploration rights to *non-qualified individuals.* Consequently, a miner might not be able to offer his licenses as secured collateral to banks or to other lenders lacking the professional qualifications to receive these rights if the miner defaulted on his debt obligations.

In addition, no foreign entity, in its own right, can hold any sort of mining or petroleum license; only entities registered in Mongolia under the terms of relevant company and investment laws may hold exploration and mining licenses. Should a foreign entity acquire a license as collateral or for the purpose of actual exploration or mining, and fail to create the appropriate Mongolian corporate entity to hold a given license, that failure may serve as grounds for invalidating the license.
Foreign financial institutions should be particularly vigilant as the GOM has proven willing and able to revoke mining and exploration licenses on the grounds that these licenses have not been properly pledged to legitimate Mongolian financial institutions. We advise investors with specific questions to seek professional advice on the status of the pledging process.

2009 Nuclear Energy Law (NEL)

Investors suggest that NEL curtails property rights protections for uranium:

- Requires all licensees to register uranium and certain rare earth licenses with the Nuclear Energy Agency (NEA).

- Requires that investors accept that the GOM has an absolute right to take -- without compensation -- at least 51% of the company (as opposed to the deposit) that will develop the mine as a condition of being allowed to develop any uranium property.

- Creates a uranium-specific licensing and regulatory regime independent of the existing legal framework for mineral and metal resources. The state can issue a distinct license for uranium exploration on a property otherwise dedicated to other mineral and metals exploration

Investors state that the NEL sanctions expropriation without compensation, a concept heretofore alien to Mongolian law; and offer the case of Canadian uranium exploration company in support of this claim. In 2010, the GOM revoked this Canadian firm's rights to develop a uranium deposit without compensation; and vested those rights in a Russian-Mongolian state-owned company. The Canadian firm has since move to settle its claims through international arbitration.

Although the 2006 Minerals Law of Mongolia and other pieces of legislation support compensation for rights holders for any taking, the NEL allows the GOM to seize holdings with no obligation to compensate rights holders. Complicating the issue, the law conflates deposits with the mining companies developing those deposits, letting the GOM claim an uncompensated share of any entity that might mine the deposit. In effect, the GOM demands a free-carried, non-compensated interest of no less than 51% of any uranium mining firm in Mongolia.

Uranium rights holders contested the constitutionality of these provisions before Mongolia's Constitutional Court, and lost the case. The Court upheld the law, asserting that the all minerals in the ground are the property of the Mongolian state even if extracted from the ground. Legal experts with whom we consulted explained that the Court seems to make the extraordinary and unprecedented claim that Mongolia's ownership extends to products created with the ore; hence the state has a "legitimate" claim on both the ore body and any company mining the resource. This theory appears to undermine the property rights of uranium investors and chips away at property rights protections granted both under the constitution and Mongolia's Minerals, Company, and Foreign Investment Laws.

Transparency of Regulatory System Return to top

Generally, lack of laws and regulations is not Mongolia's problem; rather, legislators and government officials lack knowledge on what foreign and domestic investors need from the state to invest securely. Compounding this ignorance, these same officials frequently decline to consult meaningfully with those affected by legislative and regulatory acts. Corruption aside, the fact that laws and regulations change with little consultation creates chaos for all parties.

Drafting Process for Legislation and Regulations

The Current Legislative Process

Mongolian laws are crafted in two ways. Typically, Parliament or the Cabinet of Ministers requests legislative action. These institutions send such requests to Prime Minister, who usually in consultation with the Cabinet of Ministers, orders the relevant ministry to draft legislation. The respective minister then relays the order to his ministerial council, which in turn sends the request to the proper internal division or agency, which in turn forms a working group. The working group drafts a law, submits it for ministerial review, makes recommended changes; and then the full Cabinet of Ministers reviews the draft, normally sending the document to relevant ministries for comment.

Prior to a final vote by the Cabinet of Ministers, the National Security Council of Mongolia (NSCM)—consisting of the President of Mongolia, the Prime Minister, and Speaker of Parliament—can review each piece of legislation for issues related to national security. Although the government has never clarified the legal and constitutional authority of the NSCM to veto or recommend changes to draft legislation, the Cabinet to our knowledge has never overruled NSCM recommendations.

Once through NSCM and Cabinet reviews, the bill goes to Parliament. Parliament may follow or reject NSCM recommendations as members see fit. In Parliament, the bill is vetted by the relevant Standing Committee, sent back for changes or sent on to the full Parliament for a vote. The President has line-item veto power, but Parliament can override presidential vetoes with a two-thirds vote.

The second approach to legislating was once rare but now common: Members of Parliament and the President of Mongolia draft and submit bills for submission to Parliament. However, such bills must be submitted to the government for review before being delivered to Parliament. If the Cabinet of Ministers does not respond within 30 days, MPs and the President of Mongolia can submit the legislation directly to Parliament without further review. The Speaker of Parliament receives the bill and directs it to the relevant Standing Committee (SC) for review. The SC may delay consideration; or, following review, pass the bill on to the Parliament's plenary body, unaltered or revised, for a general vote. Standing Committees cannot reject bills outright, as that power lies only with the plenary body of Parliament.

The Regulatory Drafting Process

For regulations, the process is truncated. The relevant minister tasks the working group that wrote the original law to draft regulations. This group submits their work to the minister who approves or recommends changes. In most cases, regulations require no Cabinet approval and become official when the relevant incumbent minister approves them. When legislation crosses inter-ministerial boundaries, the Cabinet authorizes the most relevant ministry to supervise an inter-ministerial approval process for regulations.

Role of the Ministry of Justice and Home Affairs

The Ministry of Justice and Home Affairs (MOJHA) plays a key role in the drafting of both laws and regulations. MOJHA vets all statutes and regulations before they are passed for final approval. In the case of legislation, MOJHA reconciles the language and provisions of the law with both existing legislation and the Constitution, after which the law passes to the Cabinet and then Parliament. MOJHA also vets regulations to ensure consistency with current laws and the Constitution. In effect, MOJHA can either modify or even veto legal or regulatory provisions inconsistent with existing statutes and the Constitution.

<u>System Lacks Transparency</u>

On paper the Mongolian legislative and regulatory process appears transparent, but investors and other observers report a gap between the theory of transparency inherent in Mongolian law and the actual practices of officials and legislators.

In 2011, Parliament passed the *Law on Information Transparency and the Right to Information (LIT).* This legislation sets out which government, legislative, and non-governmental organizations must provide information to the public—both in terms of what information should be regularly disseminated and how these respective organizations should respond to requests for information by citizens and legal entities residing in Mongolia. LIT requires state policies, some legislative acts, and administrative decisions to be posted on the appropriate government websites in understandable language for no less than 30 days for comment and review. Comments may be incorporated in proposals if deemed appropriate. In addition, government entities must post public hiring processes, concessions, procurement, and budget and finance information.

LIT specifically exempts the armed forces, the border protection and internal troops, and intelligence organizations from its provisions. Ongoing citizen complaints and petitions are not subject to LIT's provisions; nor does the law apply to intellectual property information, corporate or business information, or personal information.

In addition to LIT, the *Law on Making Laws* (LML) requires (or requests in the case of Parliament) that those who draft and submit laws to Parliament—termed *lawmakers* in the LML—must subject their legislative acts to comment and review. Specifically, the President and the ministries must submit their legislative drafts for review and comment. Parliament, however, may solicit comment and review but is not required to do so. However, the LML does not specify who is to be consulted, how they are to be consulted; when or where; and what is to be done with comments and critiques of a given piece of legislation.

In response to LIT, the Cabinet of Ministers requires ministries to post proposed regulatory changes on ministerial websites for comment and review at least thirty (30) days before approval. As with LML, the Cabinet decree does not specify a standard process for collecting and acting upon public comment and review.

Such nods to transparency notwithstanding, investors find that the current process allows no statutory, systematic, and transparent review of legislation and regulations by stakeholders and the public. Most ministerial initiatives still seem to go unpublished until the draft passes out of a given ministry to the full Cabinet. Typically, the full Cabinet discusses and passes bills on to Parliament, without public input or consultation. Parliament itself neither issues a formal calendar nor routinely announces or opens its standing committees or full chamber hearings to the public. While Parliament at the beginning of each session announces a list of bills to be considered during the session, this list is very general and often amended. New legislation is commonly introduced, discussed, and passed without public announcement or consideration. Members of the public requesting information on the voting record of their representative are often told that such information is not publicly available.

Laws, Regulations, and Policies that Impede FDI

While the GOM has supported FDI and domestic investment, individual agencies and elements of the judiciary reportedly use their respective powers to hinder investments into such sectors as meat production, telecommunications, aviation, or pharmaceuticals. Both domestic and foreign investors report abuses of inspections, permits, and licenses by Mongolian regulatory agencies. Aside from the growing perception that the judiciary is prejudiced against foreign investors, we generally note no systematic pattern of abuse consistently initiated by either government or private Mongolian entities aimed at foreign investment in general or against U.S. investors in particular. More typically, we find opportunistic attempts by individuals to misuse contacts to harass U.S. and other foreign investors with whom the Mongolian entity is in dispute. (See Chapter A. 4 for a fuller discussion of the Mongolian judicial response to foreign investor disputes.)

Alternatively, other reports suggest that Mongolians use connections with well-placed regulators at all levels to extract extralegal payments from both foreign and domestic businesses or otherwise hinder their work. In the latter case, the general approach is to demand a payment in lieu of not enforcing work, environmental, tax, health and safety rules; otherwise imposing the full weight of a contradictory mix of socialist era and the current, reformed rules on the firm. Most foreign businesses refuse to pay bribes and in turn accept the punitive inspections, concede to some of the violations found, and contest the rest in the courts. In our experience companies that stand against predatory abuse of statutory and regulatory power will face impediments at the start; but these usually ease over time as state agents look for easier targets.

Abuse of the Exit Visa System

Valid exit visas are required and normally issued *pro forma* at the port of departure (e.g., the international airport), but may be denied for a variety of reasons including civil disputes, pending criminal investigation, or for immigration violations. The law does not allow authorities to distinguish a criminal and civil case when detaining a person. If denied for a civil dispute, the exit visa may not be issued until either the dispute is resolved administratively or a court has rendered a decision. Neither current law nor regulations establish a clear process or timetable for resolution. In fact, the Mongolian government maintains the right to detain foreign citizens indefinitely without appeal until the situation has been resolved.

Research into the issue has revealed that abuse of the exit-visa system also affects investors from countries other than the U.S. All cases have a similar profile. A foreign investor has a commercial dispute with a Mongolian entity, often involving assets, management practices, or contract compliance. The Mongolian entities respond by filing either civil or criminal charges with local police or prosecutorial authority. It is important to note that at this point there need be no actual arrest warrant or any sort of official determination that charges are warranted: Mere complaint by an aggrieved party is sufficient grounds to deny exit.

An investor in this situation is effectively detained in Mongolia indefinitely. Some foreign investors have resolved the impasse by settling, thereby allowing departure from Mongolia. If unwilling to settle, the foreign investor will have to undergo the full investigatory process, which may lead to a court action. Investigations commonly take up to six months, and in one case an American citizen was denied an exit visa for over two years. In addition, even if a dispute seems settled, it can be filed in the same venue again—if the local police or prosecutors are willing—or in a different venue.

We note that Mongolian investors are not subject to similar impositions of their immigration codes when involved in commercial disputes. Mongolian citizens require no exit visas to depart Mongolia and can only be denied exit with a pending arrest warrant.

Efficient Capital Markets and Portfolio Investment Return to top

Mongolia is developing the experience and expertise needed for portfolio investments and active capital markets. It currently has a regulatory apparatus for these activities, and both the state and private entities beginning to engage in them. The government of Mongolia (GOM) imposes few restrictions on the flow of capital in any of its markets. However, multilateral institutions, particularly the International Monetary Fund (IMF), have typically found the regime too loose, especially in the crucial banking sector.

Although the government has clear rules about capital reserve requirements, loan practices, and banking management practices, the Bank of Mongolia (BOM), Mongolia's central bank, has historically resisted restraining credit flows and interfering with operations at Mongolia's commercial banks, even when the need to intervene has been apparent. However, in the ongoing aftermath to the 2008 global financial crisis on Mongolia's banking sector, the BOM has attempted to improve its capacity to deal with improperly managed banks that have affected the health of Mongolia's financial system. For example, the BOM closed and/or merged three (3) banks, leaving thirteen (13) operating commercial banks. Although further consolidation is under consideration, the reform process has stalled. In addition to these ongoing concerns, investors and lenders have told us they are wary of the impact of the recently passed *Strategic Entities Foreign Investment Law of 2012* (SEFIL), as it can potentially disrupt collaterization of Mongolian equities upon which Mongolian-based investments have been secured.

Potential Impact of the Strategic Entities Foreign Investment Law (SEFIL)

Lenders and investors argue that SEFIL may delay or prevent use of Mongolian equities to secure investments and financing; and, consequently, disrupt badly needed investments into the affected sectors. Prior to SEFIL, lenders and investors could secure their financing and investments by transfers of shares or other forms of equity. Under SEFIL, the GOM has the authority to intervene, or at the very least, delay the transaction to ensure GOM concerns under the law are satisfied. Although these review processes under SEFIL have not been formalized, investors believe that such reviews will take several months if not longer. Of equal concern is the possibility of having to seek approval for share transfers that occur abroad. This lack of clarity on financing and investment would invariably impact planning, hiring, and procurement decisions for relevant projects. An official, definitive GOM clarification of these issues would go a long way to quelling investor concerns. For a fuller discussion of SEFIL see Chapter A.1.

Capital and Currency Markets

Inflation Concerns

Typically Mongolia experiences high liquidity accompanied by scarce, barely affordable capital; however, 2011 saw liquidity in the private sector dramatically contract as the BOM, faced with inflationary impact of excessive government spending, moved to curtail excessive money supply and loan growth. These activities have driven up interest rates, which had been trending down, from around 12% for the most credit worthy to perhaps 90% per annum (or more) for the least. These efforts notwithstanding, inflation remains an ongoing concern. In 2008, inflation peaked at around 40% in 2008 before settling at 24%. Inflation eased in 2009 and 2010 as the global economic crisis drove down global commodity prices, which, when coupled with domestic monetary tightening, helped lower Mongolia's import-driven inflation rate. The official rate has hovered at around 12%. In the first half of 2012 budgets and inflation soared due to pre-election cash transfers, salary and pension increases, and public capital projects. However, severe revenue shortfalls have forced legislators to limit spending in the latter half of 2012, and these limits are expected to continue through 2013. Consequently, fears of inflation have somewhat abated.

Capital and Currency

Foreign investors can easily tap into domestic capital markets. However, they seldom do, because they can do better abroad or better locally by simply taking on an equity investor, Mongolian or otherwise.

The global economic crisis savaged Mongolia's currency, capital, and equity markets. While the currency, the Tugrik, proved resilient in holding its value against most international currencies, it fell some 40 % against the U.S. dollar from late 2008 into spring 2009, as the worst of the crisis hit. In 2010 through mid-2011, the Tugrik appreciated nearly 15% against the U.S. dollar; only to lose much of these gains in the latter half of 2011. 2012 has seen the Tugrik weaken, and most expect no strengthening until mid-2013 at the earliest, when China might increase purchases of Mongolian coal and OT is expected to begin exporting copper and gold. In the long term, we expect surging commodities sales and an influx of capital to fund future mining projects will yield a resilient Tugrik. However, a strengthening currency may prove a mixed blessing, complicating economic policy—in particular the impact a strong Tugrik may have on the growth of non-minerals export industries.

Equity Markets

In 2012, investors had hoped that the GOM would deliver on long-standing promises to adopt and implement reforms that would see the Mongolian Stock Exchange (MSE) become a more or less fully functioning stock exchange.

The MSE remains fully state-owned and state-managed, although it does allow private brokerage firms to conduct stock-trading operations. It is officially owned by the State Property Committee of Mongolia (SPC), a government agency now under the direct authority of the Ministry of Industry and Agriculture that oversees all state-owned enterprises, and had been managed day-to-day by a team selected from the ranks of the leading political party (although such employees do have to give up official party membership upon accepting a position at any state-owned enterprise).

Faced with growing demands from the public and development needs, the GOM recognizes that its ambitious program to raise capital for development projects—IPO's of state-owned businesses and underwriting of state-owned mining companies—hinges on creating a best-practices exchange. Hence, the GOM accepts in principal that the MSE requires reform. To support this effort, the GOM has replaced MSE management with a qualified international operator of stock exchanges, the London Stock Exchange (LSE).

However, observers tell us that both the GOM and Parliament are lagging on important and essential reforms of the Securities Law of Mongolia. The current law, insufficient and obsolete, was crafted to support the needs of individual Mongolian citizen investors rather than those of institutional or foreign investors. Consensus is that an up-to-date, best practice law would:

- Formally distinguish between beneficial owners and registered owners.
- Allow for custodians (financial institutions with legal responsibility for investors' securities).

- Institute new rules that would allow companies *listed* on the Mongolian Stock Exchange (MSE) to list their shares on other exchanges.

An amended securities law, consistent with practices, regulation, and statute used in other exchanges, will allow Mongolia to list and raise capital for important projects, such as Oyu Tolgoi and Tavan Tolgoi. Without such a law, Tavan Tolgoi and other public and private investments will face severe impediments to raising capital and valuing assets. Mining company stock issues also impede expanding the role of the MSE. The 2006 Minerals Law of Mongolia requires holders of mining licenses for projects of strategic importance—Oyu Tolgoi, for example—to sell no less than 10% of the resulting entity's shares on the Mongolian Stock Exchange. Foreign and domestic mining companies with non-strategic assets have told us that the GOM also pressures them to list shares on the MSE. To our knowledge no company has followed the law or submitted to GOM pressure to list, because no one understands, nor has the GOM explained, what this provision means in practice or how to implement it.

The Banking Sector

Weakness in Mongolia's banking sector concerns all players, including the International Monetary Fund (IMF: http://www.imf.org). The system has been through massive changes since the socialist era, during which the banking system was divided into several different units. This early system failed through mismanagement and commercial naivety in the mid-90s, but over the last decade has become more sophisticated and somewhat better managed. The combined assets of Mongolia's current 13 commercial banks add up to around US$8.4 billion. (For banking sector information, go to the Bank of Mongolia at http://www.mongolbank.mn/eng/default.aspx.)

Mongolia has a few large, generally well-regarded banks owned by both Mongolian and foreign interests. These three banks—Trade and Development Bank, Golomt Bank, and Khan Bank—collectively hold approximately 90% ($7.7 billion) of all banking assets. They apparently follow international standards for prudent capital reserve requirements, have conservative lending policies, up-to-date banking technology, and seem generally well-managed. If a storm descends again on Mongolia's banking sector, these banks appear able to weather it.

However, concerns remain among observers about the effectiveness of Mongolia's legal and regulatory environment. As with many issues in Mongolia, the problem is not of lack of laws or procedures but the will and capacity of the regulator, the BOM, to supervise and execute mandated functions, particularly in regard to capital reserve requirements and non-performing loans.

From 1999 through late 2008, BOM consistently refused to close any commercial bank for insolvency or malpractice. In late 2008, Mongol Bank took Mongolia's fourth largest bank into receivership. Most deposits were guaranteed and their depositors paid out at a cost of around US$150 million -- not an inconsequential sum in an economy then hovering at US$5 billion per annum GDP. In 2009, Mongolia's fifth largest bank went into receivership, and in 2010 two other mid-sized banks were merged.

The BOM and Mongolia's financial system endured that crisis. However, most observers note that the insolvent banks had shown signs of mismanagement, non-performing loans, and ill-liquidity for several years before the BOM moved to safeguard depositors and the financial sector. In response the BOM has attempted to introduce long-term reforms to enhance its ability to supervise the banking system; however, parliament has yet to approve a package of reforms that has been before it for over two years. Little remedial action occurred in 2012, and none is expected in 2013.

Competition from State Owned Enterprises Return to top

Mongolia has SOEs in, among other areas, transport, power, and mining. Investors have been allowed to conduct activities in these sectors, although in some cases a largely opaque regulatory framework limits both competition and investor penetration.

Corporate Governance of Mongolian SOEs

Until recently, the formally independent State Property Committee (SPC) controlled almost all Mongolian SOEs (excluding Oyu Tolgoi, Tavan Tolgoi, and uranium properties and the railroad). However, the 2012 government re-organization saw the SPC become a department of the Ministry of Industry and Agriculture.   The implications of this change have yet to be worked out; and it remains unclear how the state will manage its portfolio of companies. In any case, when investing with Mongolian SOEs, investors are strongly advised to contact all relevant government entities to learn what their respective interests are and what actual administrative and management authority they actually have.

All SOEs are technically required to submit to the same international best practices on disclosure, accounting, and reporting as imposed on private companies. When the SOEs seek international investment and financing, they tend to follow these rules. However, because international best practices are not institutionalized in, and are sometimes at odds with, Mongolian law, many SOEs tend to follow existing Mongolian rules by default. At the same time, foreign-invested firms follow the international rules, causing inconsistencies in disclosure and accounting.

Aviation SOE

The state involves itself in the domestic and international aviation sectors; however, at this time, it operates no regular domestic schedule of flights. In addition to the state-owned Mongolian Airlines (MIAT), Mongolia has four private domestic service providers: EZNIS, Aero Mongolia, Blue Sky Aviation and Khuunu Airlines. Government regulation recommends maximum ticket prices that airlines may charge for all domestic routes, but the law does not strictly forbid airlines from charging fees higher than the state carrier, which does not currently operate domestically. Private carriers have succeeded in charging rates that might yield profits and support safe and efficient flying arrangements. MIAT flies a regular and occasionally profitable schedule of international flights, serving China, Japan, Korea, Russia, and Germany. Air China, Korean Air, and Aeroflot also serve these routes. EZNIS and two other new private carriers also fly international routes to second tier Russian, Chinese, and Japanese cities, and seek additional routes throughout the Eurasian region. Also, there is no indication that MIAT is receiving preferential pricing or services.

Rail SOE

Mongolia has no plans to privatize the railroad it has jointly held with the government of Russia since 1949. As far as the construction of additional rail lines, the state has no real plans to turn over control of any rail network to private entities. Current law does allow private firms to build and operate but ultimately transfer new railroads to the state. Under this law several private mining companies have proposed rail links, and obtained licenses to construct these new lines from their respective coal mines to the Chinese border or to the currently operating spur of the Trans-Siberian Railroad; however, some of these licenses have been suspended or cancelled. Because landlocked Mongolia and its neighbors have yet to resolve transnational shipping issues, companies have not been able to use rights granted under these licenses.

Since 2010, Parliament has explicitly limited private rights to develop shipping and transport infrastructure required to move mining products to likely markets, such as China. Current policy requires that railroads linking key coal deposits in the southern Gobi desert region to link those deposits to Russia's Pacific ports before linking them with Chinese markets. Further, these projects may use the international gauge used in China only after the links with Russia are completed and using the Russian gauge. The GOM argues that these policies will keep Mongolia from dependency on one market for its coal products, namely China.

Mining SOEs

Mongolia has two categories of mining SOEs. The first group is legacy SOEs from the socialist era. The most important of these, Mongolrostvetmet and the Erdenet Mining Concern, are jointly owned by the Mongolian and Russian governments. The second category includes new SOEs mining copper, coal, uranium, and rare earths held by Erdenes MGL and MonAtom respectively. Erdenes MGL holds the government's 34 % of the Oyu Tolgoi project, but has no direct management responsibilities for this asset. Erdenes also holds the GOM's 100% share of the Tavan Tolgoi coal deposit. Part of this holding is structure through a subsidiary company Erdenes MGL Tavan Tolgoi (EMTT), which owns and operates a new project on one of the Tavan Tolgoi licenses. In 2011, EMTT began extracting and shipping coal from the eastern half of the Tsankhi license area of the Tavan Tolgoi deposit, and inaugurated another mining operation on the western half of Tsankhi in 2012.

Although the trend had been for the GOM to extract itself from ownership of companies and other commercial assets, both the 2006 Minerals Law of Mongolia and the 2009 Nuclear Energy Law bring the state back into mining. Under both laws, the GOM grants itself the right to acquire equity stakes ranging from 34% to perhaps 100% of certain deposits deemed strategic for the nation. These companies are then mandated to use the proceeds from their respective activities for the benefit of the Mongolian people. (See Chapter A.1 for fuller discussions of both laws.)

Driving these trends is an explicit, public desire by the GOM to create national mining champions for coal, uranium, copper, and rare earths. The policy posits that a national champion owned and operated by Mongolians for Mongolians would be more inclined to conduct value-added operations in Mongolia than would foreign investors. Whether or not this policy effectively meets Mongolia's development needs, observers have told us that they perceive that the GOM may not favor foreign investment and is even taking steps to limit and control FDI in mining because it considers that such investment threatens GOM ambitions.

Foreign and domestic investors also question if the GOM will waive legal and regulatory requirements for its state-owned mining companies that it imposes on all others. These claims seem borne out by the GOM's treatment of its Erdenes MGL Tavan Tolgoi mining operation. Generally, private mining firms take at least two years to submit and receive the required environmental and operating permits for coal mines in Mongolia. EMTT was up and running within a single year without any indication that the GOM forced EMTT to follow the statutory or regulatory requirements imposed on other operations; in fact, a review of the timeline leading to commencement of EMTT's operation suggests that the extensive statutory requirements of the current approval process that normally takes several years to complete cannot have been followed in this case. If true, this runs counter to GOM demand that companies comply with relevant statutes.

Finally, investors also express concerns about the GOM's capacity to accept the fiduciary responsibilities that come from both owning and operating mines. For example, state-owned EMTT received a US $250 million prepayment for coal from a Chinese SOE. Rather than allowing EMTT to retain these funds, the GOM claimed the balance of the payment, US$200 million, for its Human Development Fund, which has occasionally redistributed mining revenues to the Mongolian public. This GOM action left EMTT with insufficient funds to cover even basic capital needs and daily expenses.

In light of this action, investors worry that the GOM will divert future mining revenues or the proceeds of the issuance of sovereign bonds to non-related expenses. Going forward, the GOM will likely have to provide binding assurances that it will responsibly steward company interests rather than seeing state-owned companies and bond proceeds as no more than transfer mechanisms for payments to the Mongolian public.

Mongolia's Human Development Fund and Development Bank

The Human Development Fund

In 2008, Parliament established the *Law on the Human Development Fund (HDF),* ostensibly Mongolia's first sovereign wealth fund; however, it does not seem to precisely function as a sovereign wealth fund. The stated purpose of the law was to fulfill campaign promises to provide every citizen with cash payments in excess of U.S. $1,000 so that the public could benefit from Mongolia's mineral wealth. The HDF is to be funded from the profits, taxes, and royalties generated by the mining industry as a whole, including large, medium and small scale projects.

The HDF basically serves as an instrument to distribute mining revenues to the citizens of Mongolia in the form of social benefits: Payments for pension and health insurance premiums; mortgage support and other loan guarantees; and payments for health and education services. The GOM has no plans to use the HDF as a conduit for Mongolian investments abroad or for FDI into Mongolia. In that sense, we find no conflict between the HDF and private sector investment.

Development Bank of Mongolia

In 2011, Parliament passed the *Law on the Development Bank* for the explicit purpose of financing major infrastructure projects and support for export-oriented industries. The Mongolian government has selected a South Korean company to manage the Development Bank, overseen by a board of directors composed of government appointees. Early plans were for the Development Bank to invest in cashmere processing, railways, power, and petroleum processing. At this point, much of the first tranche of sovereign debt, some U.S. $ 600 million, has been disbursed. In addition to these funds, observers report that the Development Bank or the Bank of Mongolia may find itself responsible for administering the recent U.S. $1.5 billion sovereign debt issue, although it may not have much control over which projects receive these funds.

Mongolia passed its Fiscal Stability Law (FSL) in 2010 as part of its Stand-By Arrangement with the International Monetary Fund which ended on September 30, 2010. The FSL establishes a stabilization fund that sets aside certain mining revenues in excess of pre-set structural revenue estimates. Savings may then be used during a downturn to finance the budget. Under the FSL, a portion of the savings generated by the Fiscal Stability Fund can be used to finance domestic and foreign investments. For example, the government is allowed to use this money to purchase long term securities offered by the Development Bank to fund its activities.

How the GOM and parliament will divide mining revenues between the HDF and the FSL remains to be determined.

Corporate Social Responsibility Return to top

It is early days for corporate social responsibility (CSR) in Mongolia. Most Western companies make good faith efforts to work with local communities. These efforts usually take the form of specific projects aimed at providing missing infrastructure—wells, power supplies, clinics or schools—or support for education such as books and scholarships. The larger Western firms tend to follow accepted international CSR practices and underwrite a full range of CSR activities across Mongolia; however, the smaller ones, lacking sufficient resources, often limit their CSR actions to the locales in which they work. Only the largest Mongolian firms regularly undertake CSR actions, with small- to medium –sized enterprises generally (but not always) hindered by limited resources from underwriting CSR actions.

Generally, firms that pursue CSR are perceived favorably, at least within the communities in which they act. Nationally, responses range from praise from politicians to cynical condemnation by certain civil society groups of CSR actions as nothing more than an attempt to “buy” public approval.

Political Violence Return to top

Mongolia is both peaceful and stable; political violence is rare. Mongolia has held nine (out of 10) peaceful presidential and parliamentary elections in the past 17 years, though a brief but violent outbreak of civil unrest followed the disputed parliamentary elections on July 1, 2008. During that unrest, five people were killed and a political party's headquarters was burned. The violence was quickly contained and order restored, and no repeat of civil unrest has occurred since then. Indeed Mongolia held peaceful presidential elections less than a year later in May 2009, in which the incumbent president was defeated and conceded at noon the next day, and power smoothly transitioned to the winner. Most recently, Mongolia held successful and peaceful parliamentarian elections in June 2012, followed by a peaceful transition of power in August 2012 after the formation of a new government.

Mongolia has an ethnically homogenous population: 97% of the population is Khalkh Mongol. The largest minority, numbering an estimated 90,000 people, is Kazakh (Muslim), concentrated in the far western part of the country.

A more nationalist tone in politics is evident. Media reports and observer reports suggest a rising anti-foreigner sentiment among the public, mostly based on the idea of wanting Mongolian resources developed by Mongolians for the benefit of Mongolians.

This nationalist sentiment has not led to any known incidents of anti-Americanism or politically motivated damage to American projects or installations in at least the last decade. However, there has been a gradual and perceptible level of rising hostility to Chinese and Korean nationals in Mongolia. This hostility has led to some instances of improper seizure of Chinese and Korean property; and in more limited cases acts of physical violence against the persons and property of Chinese and Korean nationals resident in Mongolia. Other foreign nationals living in Mongolia have expressed concern that they may inadvertently become victims of similar hostility.

Corruption

Return to top

Corruption, including bribery, raises the costs and risks of doing business. Corruption has a corrosive impact on both market opportunities overseas for U.S. companies and the broader business climate. It also deters international investment, stifles economic growth and development, distorts prices, and undermines the rule of law.

It is important for U.S. companies, irrespective of their size, to assess the business climate in the relevant market in which they will be operating or investing, and to have an effective compliance program or measures to prevent and detect corruption, including foreign bribery. U.S. individuals and firms operating or investing in foreign markets should take the time to become familiar with the relevant anticorruption laws of both the foreign country and the United States in order to properly comply with them, and where appropriate, they should seek the advice of legal counsel.

The U.S. Government seeks to level the global playing field for U.S. businesses by encouraging other countries to take steps to criminalize their own companies' acts of corruption, including bribery of foreign public officials, by requiring them to uphold their obligations under relevant international conventions. A U. S. firm that believes a competitor is seeking to use bribery of a foreign public official to secure a contract should bring this to the attention of appropriate U.S. agencies, as noted below.

U.S. Foreign Corrupt Practices Act: In 1977, the United States enacted the Foreign Corrupt Practices Act (FCPA), which makes it unlawful for a U.S. person, and certain foreign issuers of securities, to make a corrupt payment to foreign public officials for the purpose of obtaining or retaining business for or with, or directing business to, any person. The FCPA also applies to foreign firms and persons who take any act in furtherance of such a corrupt payment while in the United States. For more detailed information on the FCPA, see the FCPA Lay-Person's Guide at: http://www.justice.gov/criminal/fraud/

Other Instruments: It is U.S. Government policy to promote good governance, including host country implementation and enforcement of anti-corruption laws and policies pursuant to their obligations under international agreements. Since enactment of the FCPA, the United States has been instrumental to the expansion of the international framework to fight corruption. Several significant components of this framework are the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Antibribery Convention), the United Nations Convention against Corruption (UN Convention), the Inter-American Convention against Corruption (OAS Convention), the Council of Europe Criminal and Civil Law Conventions, and a growing list of U.S. free trade agreements. This country is party to [add instrument to which this country is party], but generally all countries prohibit the bribery and solicitation of their public officials.

OECD Antibribery Convention: The OECD Antibribery Convention entered into force in February 1999. As of March 2009, there are 38 parties to the Convention including the United States (see http://www.oecd.org/dataoecd/59/13/40272933.pdf). Major exporters China, India, and Russia are not parties, although the U.S. Government strongly endorses their eventual accession to the Convention. The Convention obligates the Parties to criminalize bribery of foreign public officials in the conduct of international business. The United States meets its international obligations under the OECD Antibribery Convention through the U.S. FCPA. [Insert information as to whether your country is a party to the OECD Convention.]

UN Convention: The UN Anticorruption Convention entered into force on December 14, 2005, and there are 158 parties to it as of November 2011 (see http://www.unodc.org/unodc/en/treaties/CAC/signatories.html). The UN Convention is the first global comprehensive international anticorruption agreement. The UN Convention requires countries to establish criminal and other offences to cover a wide range of acts of corruption. The UN Convention goes beyond previous anticorruption instruments, covering a broad range of issues ranging from basic forms of corruption such as bribery and solicitation, embezzlement, trading in influence to the concealment and laundering of the proceeds of corruption. The Convention contains transnational business bribery provisions that are functionally similar to those in the OECD Antibribery Convention and contains provisions on private sector auditing and books and records requirements. Other provisions address matters such as prevention, international cooperation, and asset recovery. [Insert information as to whether your country is a party to the UN Convention.]

OAS Convention: In 1996, the Member States of the Organization of American States (OAS) adopted the first international anticorruption legal instrument, the Inter-American Convention against Corruption (OAS Convention), which entered into force in March 1997. The OAS Convention, among other things, establishes a set of preventive measures against corruption, provides for the criminalization of certain acts of corruption, including transnational bribery and illicit enrichment, and contains a series of provisions to strengthen the cooperation between its States Parties in areas such as mutual legal assistance and technical cooperation. As of December 2009, the OAS Convention has 34 parties (see http://www.oas.org/juridico/english/Sigs/b-58.html) [Insert information as to whether your country is a party to the OAS Convention.]

Council of Europe Criminal Law and Civil Law Conventions: Many European countries are parties to either the Council of Europe (CoE) Criminal Law Convention on Corruption, the Civil Law Convention, or both. The Criminal Law Convention requires criminalization of a wide range of national and transnational conduct, including bribery, money-laundering, and account offenses. It also incorporates provisions on liability of legal persons and witness protection. The Civil Law Convention includes provisions on compensation for damage relating to corrupt acts, whistleblower protection, and validity of contracts, inter alia. The Group of States against Corruption (GRECO) was established in 1999 by the CoE to monitor compliance with these and related anti-corruption standards. Currently, GRECO comprises 49 member States (48 European countries and the United States). As of December 2011, the Criminal Law Convention has 43 parties and the Civil Law Convention has 34 (see www.coe.int/greco.) [Insert information as to whether your country is a party to the Council of Europe Conventions.]

Free Trade Agreements: While it is U.S. Government policy to include anticorruption provisions in free trade agreements (FTAs) that it negotiates with its trading partners, the anticorruption provisions have evolved over time. The most recent FTAs negotiated now require trading partners to criminalize "active bribery" of public officials (offering bribes to any public official must be made a criminal offense, both domestically and trans-nationally) as well as domestic "passive bribery" (solicitation of a bribe by a domestic official). All U.S. FTAs may be found at the U.S. Trade Representative Website: http://www.ustr.gov/trade-agreements/free-trade-agreements. [Insert information as to whether your country has an FTA with the United States: Country [X] has a free trade agreement (FTA) in place with the United States, the [name of FTA], which came into force. Consult USTR Website for date: http://www.ustr.gov/trade-agreements/free-trade-agreements.]

Local Laws: U.S. firms should familiarize themselves with local anticorruption laws, and, where appropriate, seek legal counsel. While the U.S. Department of Commerce cannot provide legal advice on local laws, the Department's U.S. and Foreign Commercial Service can provide assistance with navigating the host country's legal system and obtaining a list of local legal counsel.

Assistance for U.S. Businesses: The U.S. Department of Commerce offers several services to aid U.S. businesses seeking to address business-related corruption issues. For example, the U.S. and Foreign Commercial Service can provide services that may assist U.S. companies in conducting their due diligence as part of the company's overarching compliance program when choosing business partners or agents overseas. The U.S. Foreign and Commercial Service can be reached directly through its offices in every major U.S. and foreign city, or through its Website at www.trade.gov/cs.

The Departments of Commerce and State provide worldwide support for qualified U.S. companies bidding on foreign government contracts through the Commerce Department's Advocacy Center and State's Office of Commercial and Business Affairs. Problems, including alleged corruption by foreign governments or competitors, encountered by U.S. companies in seeking such foreign business opportunities can be brought to the attention of appropriate U.S. government officials, including local embassy personnel and through the Department of Commerce Trade Compliance Center "Report A Trade Barrier" Website at tcc.export.gov/Report_a_Barrier/index.asp.

Guidance on the U.S. FCPA: The Department of Justice's (DOJ) FCPA Opinion Procedure enables U.S. firms and individuals to request a statement of the Justice Department's present enforcement intentions under the anti-bribery provisions of the FCPA regarding any proposed business conduct. The details of the opinion procedure are available on DOJ's Fraud Section Website at www.justice.gov/criminal/fraud/fcpa. Although the Department of Commerce has no enforcement role with respect to the FCPA, it supplies general guidance to U.S. exporters who have questions about the FCPA and about international developments concerning the FCPA. For further information, see the Office of the Chief Counsel for International Counsel, U.S. Department of Commerce, Website, at http://www.ogc.doc.gov/trans_anti_bribery.html. More general information on the FCPA is available at the Websites listed below.

Exporters and investors should be aware that generally all countries prohibit the bribery of their public officials, and prohibit their officials from soliciting bribes under domestic laws. Most countries are required to criminalize such bribery and other acts of corruption by virtue of being parties to various international conventions discussed above.

Corruption Issues in Mongolia

Public sector corruption, including bribery of public officials remains a challenge for U.S. firms operating in Mongolia. In mid-2005, the USAID Mission to Mongolia, in collaboration with USAID/Washington and The Asia Foundation (TAF), funded a corruption assessment conducted by Casals & Associates, Inc. (C&A) The complete report is available at http://www.usaid.gov/mn. Follow-up surveys of the problem show that the results of this assessment remain valid in 2013. The study found that opportunities for corruption have increased at both the "petty" or administrative and "grand" or elite levels. Both types of corruption should concern Mongolians and investors, but grand corruption should be considered a more serious threat because it solidifies linkages between economic and political power that could negatively affect or ultimately derail or delay democracy and development. Several inter-related factors contribute to Mongolia's corruption problem:

- A blurring of the lines between the public and private sector brought about by systemic conflicts of interest at nearly all levels;

- A lack of transparency and access to information that surrounds many government functions and has yielded criticism that it renders the media ineffective and hinders citizen participation in policy discussions and government oversight;

- An inadequate civil service system that gives rise to a highly politicized public administration and the existence of a "spoils system;"

- Limited political will to actually implement required reforms in accordance with the law, complicated by conflicting and overlapping laws that further inhibit effective policy implementation;

- Weak government control institutions, including the Mongolian Independent Authority Against Corruption (IAAC), the Bank of Mongolia, National Audit Office, parliamentary standing committees, Prosecutor General, Generalized State Inspection Agency, State Property Committee, and departments within the Ministry of Finance.

The aforementioned systemic shortcomings have allowed for an evolution of corruption in Mongolia that "follows the money," meaning that graft on the most significant scales generally occurs most often in the industries and sectors where there is the most potential for financial gain.

During the early 1990s, in the early transition toward democracy and market economy, two areas that offered particular opportunities for grand scale corruption at that time were foreign donor assistance and privatization of state-owned enterprises. As Mongolia later embarked on further policy changes to institutionalize capitalistic practices, corruption reared its head in the process of privatizing public land. As the economy develops, corruption has become endemic in the banking and mining sectors. There also are several areas that provide stable and consistent opportunities for corruption, both grand and administrative in nature, such as for procurement opportunities, issuance of permits and licenses, customs, inspections, the justice sector, among high-level elected and appointed officials, and in the conduct of a variety of day-to-day citizen- and business-to-government transactions, notably in education, health care, and city services.

Despite the fact that few of the conditions to prevent corruption from getting worse are in place, the situation has not reached the levels that are evident in many other countries with contexts and histories similar to that of Mongolia. Perhaps more importantly, there are a number of efforts underway to actively combat corruption, including:

- Government commitments to international anti-corruption regimes and protocols, such as the Anti-Corruption Plan of the Asian Development Bank/Organization of Economic Cooperation and Development (ADB/OECD) and the United Nations Convention Against Corruption (UNCAC);

- Development of a National Program for Combating Corruption and formation of a National Council for coordinating the Program and a Parliamentary Anti-Corruption Working Group;

- Implementation of an anti-corruption law that has included the formation of an independent anti-corruption body;

- Short- and medium-term anti-corruption advocacy and "watchdog" programs initiated by civil society organizations, often with international donor support.

There is, in fact, time for Mongolians and the international community to nurture these efforts and take further action before corruption grows too large to rein in. In general, the main need in Mongolia is to develop effective disincentives for corrupt behavior at both the administrative and political levels. In its broadest configuration, this implies a strategy of increasing transparency and effective citizen oversight, as well as intragovernmental checks and balances. Without these major changes, administrative reforms may provide some small improvements, but they are unlikely to solve the problem. Specifically, the aforementioned USAID-sponsored report of 2005 made several strategic recommendations, which remain relevant in 2013, including:

- Diplomatic engagement focused on keeping anti-corruption issues high on the policy agenda, promoting implementation of existing laws related to anti-corruption, and highlighting the need for further measures to promote transparency and improved donor coordination;

- General programmatic recommendations to address conflicts of interest, transparency/access to information, civil service reforms, and the independent anti-corruption body, with a definitive focus on engaging civil society and promoting public participation utilizing UNCAC as a framework; and

- Specific programmatic recommendations to address loci of corruption, such as citizen- and business-to-government transactions, procurement, privatization, customs, land use, mining, banking, the justice sector, and the political and economic elite.

In addition, the reputable international anti-corruption NGO Transparency International (TI) opened a national chapter in Mongolia in 2004 (for more information, see: www.transparency.org). U.S. technical advisors have worked with TI to train Mongolian staff to monitor corruption and to advocate on behalf of anti-corruption legislation and. TI first included Mongolia in its annual "Perceptions of Corruption" survey in September 2004. In that initial survey, Mongolia ranked 85 out of 145 countries and its score of 3 on the Corruption Perception Index was "poor." (TI's CPI Score relates to "perceptions" of the degree of corruption as seen by business people and country analysts and ranges between 10 (highly clean) and 0 (highly corrupt).. 2009 found Mongolia dropping to 124 out of 180 nations, and declining to a poorer score of 2.7; 2010 found Mongolia 116 out of 178, with a score of 2.7; and 2011 saw no improvement, with Mongolia staying in the bottom range with a score of 2.7. However, using a new methodology TI reported that in 2012 Mongolia rose to 94th out of 176 countries from 120th in 2011.

Current Anti-Corruption Law

In 2006, Parliament passed the *Anti-Corruption Law* (ACL), a significant milestone in Mongolia's efforts against corruption. The legislation had been under consideration since 1999. The ACL created an independent investigative body, the Independent Authority Against Corruption (IAAC). The IAAC has four sections. The Prevention and Education Section works to prevent corruption and educate the public on anti-corruption legal requirements. The Investigation Section receives corruption cases and executes investigations. The third section collects, checks, and analyzes the legally required property and income statements of government officials. The fourth section, the IAAC's Secretariat, handles administrative tasks. The IAAC formally began operations in August 2007. (For a review of the IAAC's activities from its inception through the present see The Asia Foundation Mongolia: http://asiafoundation.org/publications)

Recent Conviction of Former Senior Official

On August 2, 2012, former President of Mongolia, N. Enkhbayar (and three other co-defendants) was convicted on five corruption charges brought against him by the IAAC and the Chief Prosecutor of Mongolia. President Enkhbayar is in the final stages of the appeals process, and we expect the full panel of the Supreme Court of Mongolia to rule on his appeal in the first quarter of 2013. However, observers remain ambivalent over the implications of the conviction regardless of how the court finally rules. Some groups have argued—including Enkhbayar's defense team—that case was a spurious, politically motivated attack to prevent the President from running in the 2012 parliamentary elections and the coming 2013 presidential election. Others assert that even if the charges have a political dimension to them, that the very act of going after such a senior figure sends a clear message to others that senior politicians can no longer hide behind their current and former offices.

Anti-Corruption Resources

Some useful resources for individuals and companies regarding combating corruption in global markets include the following:

- Information about the U.S. Foreign Corrupt Practices Act (FCPA), including a "Lay-Person's Guide to the FCPA" is available at the U.S. Department of Justice's Website at: http://www.justice.gov/criminal/fraud/fcpa.

- Information about the OECD Antibribery Convention including links to national implementing legislation and country monitoring reports is available at: http://www.oecd.org/department/0,3355,en_2649_34859_1_1_1_1_1,00.html. See also new Antibribery Recommendation and Good Practice Guidance Annex for companies: http://www.oecd.org/dataoecd/11/40/44176910.pdf.

- General information about anticorruption initiatives, such as the OECD Convention and the FCPA, including translations of the statute into several languages, is available at the Department of Commerce Office of the Chief Counsel for International Commerce Website: http://www.ogc.doc.gov/trans_anti_bribery.html.

- Transparency International (TI) publishes an annual Corruption Perceptions Index (CPI). The CPI measures the perceived level of public-sector corruption in 180 countries and territories around the world. The CPI is available at: http://www.transparency.org/policy_research/surveys_indices/cpi/2009. TI also publishes an annual *Global Corruption Report* which provides a systematic evaluation of the state of corruption around the world. It includes an in-depth analysis of a focal theme, a series of country reports that document major corruption related events and developments from all continents and an overview of the latest research findings on anti-corruption diagnostics and tools. See http://www.transparency.org/publications/gcr.

- The World Bank Institute publishes Worldwide Governance Indicators (WGI). These indicators assess six dimensions of governance in 213 countries, including Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law and Control of Corruption. See http://info.worldbank.org/governance/wgi/index.asp. The World Bank Business Environment and Enterprise Performance Surveys may also be of interest and are available at: http://data.worldbank.org/data-catalog/BEEPS.

- The World Economic Forum publishes the *Global Enabling Trade Report*, which presents the rankings of the Enabling Trade Index, and includes an assessment of the transparency of border administration (focused on bribe payments and corruption) and a separate segment on corruption and the regulatory environment. See http://www.weforum.org/s?s=global+enabling+trade+report.

- Additional country information related to corruption can be found in the U.S. State Department's annual *Human Rights Report* available at http://www.state.gov/g/drl/rls/hrrpt/.

- Global Integrity, a nonprofit organization, publishes its annual *Global Integrity Report*, which provides indicators for 106 countries with respect to governance and anti-corruption. The report highlights the strengths and weaknesses of national level anti-corruption systems. The report is available at: http://report.globalintegrity.org/.

Bilateral Investment Agreements

Return to top

Reporter	***Partner***	***Date of Signature***	***Entry in to force***
Mongolia	Austria	19-May-01	1-May-02
	Belarus	28-May-01	1-Dec-01
	Belgium/Luxembourg	3-Mar-92	15-Apr-04
	Bulgaria	6-Jun-00	------------
	China	25-Aug-91	1-Nov-93
	Croatia	8-Aug-06	------------
	Cuba	26-March-99	-----------
	Czech Republic	13-Feb-98	5-Jul-99
	Denmark	13-Mar-95	2-Apr-96
	Egypt	27-Apr-04	25-Jan-05
	Finland	15-May-07	------------
	France	8-Nov-91	22-Dec-93
	Germany	26-Jun-91	23-Jun-96
	Hungary	13-Sep-94	29-Aug-95
	India	3-Jan-01	29-Apr-02
	Indonesia	4-Mar-97	13-Apr-99
	Israel	25-Nov-03	2-Sep-04
	Italy	15-Jan-93	1-Sep-95
	Japan	15-Feb-01	24-Mar-02
	Kazakhstan	2-Dec-94	3-Mar-95
	DPR of Korea	10-Nov-03	-----------
	Republic of Korea	28-Mar-91	30-Apr-91
	Kuwait	15-Mar-98	1-May-00
	Kyrgyzstan	5-Dec-99	-----------
	Lao People's DR	3-Mar-94	29-Dec-94
	Lithuania	27-Jun-03	3-May-04
	Malaysia	27-Jul-95	14-Jan-96
	Netherlands	9-Mar-95	1-Jun-96

Philippines	1-Sep-00	1-Nov-01
Poland	8-Nov-95	26-Mar-96
Qatar	29-Nov-07	------------
Romania	6-Nov-95	15-Aug-96
Russian Federation	29-Nov-95	------------
Singapore	24-Jul-95	14-Jan-96
Sweden	20-Oct-03	1-Jun-04
Switzerland	29-Jan-97	9-Sep-99
Tajikistan	20-Mar-09	16-Sep-09
Turkey	16-Mar-98	22-May-00
Ukraine	5-Nov-92	5-Nov-92
UAE	21-Feb-01	-------------
United Kingdom	4-Oct-91	4-Oct-91
United States	6-Oct-94	4-Jan-97
Vietnam	17-Apr-00	13-Dec-01

UNCTD: http://www.unctad.org/sections/dite_pcbb/docs/bits_mongolia.pdf)

Taxation Issues: Revocation of Double Taxation Treaties (DTTs)

Mongolia is revoking its double-taxation treaties (DTTs) with the Netherlands, Kuwait, Luxembourg, and the United Arab Emirates; and may void its remaining DTTs. The GOM argued (with some correctness according to the IMF) that many companies were not actually headquartered in the nations with which Mongolia maintained these DTTs and were using the treaties to avoid taxation in Mongolia, denying Mongolia substantial revenues. The GOM has asserted that it would never have entered into DTTs if it had fully understood their implications, although the IMF had long advised them to be wary of the impact of DTTs on revenues.

Both foreign and domestic investors—many Mongolian business use DTTs to minimize their tax bills—have strongly criticized the GOM and Parliament for revoking key DTTs. Investors also argue that revoking DTTs sends the message that Mongolia does not keep its agreements; and perhaps is too risky a place to invest. They suggest that Mongolia should have employed other methods short of full revocation, because doing so would have protected Mongolia's interests while preserving Mongolia's reputation among investors.

Revisions of the Mongolian Tax Code

The *2006 Tax Code* taxes all salary and wage income at 10% while allowing interest income and capital gains to be tax free until 2013. As of January 2013, all types of income will be taxed at a rate of 10%.

Businesses are taxed at 10 % for profits less than 3 billion Tugriks (US$ 2.2 million) and at 25% for any profit 3 billion or above. The Value Added Tax (VAT) is currently 10%. Mongolia also imposes a variety of excise taxes and licensing fees upon a variety of activities and imports.

The OT project has had a salutary effect on key tax provisions long-desired by foreign and domestic investors alike. Before OT, firms could only carry-forward losses for two (2) years after incurring the loss. While most businesses approved of this provision, many, especially that requiring large and long-term infrastructure development, noted that the two year carry-forward limit was insufficient for projects with long development lead times, as is typical of most large-scale mining developments. As a condition precedent of passing the OT Agreement, Parliament extended loss-carry forward to eight (8) years.

Less positively, Mongolia's Parliament has revoked and refuses to reinstate an exemption available on value-added taxes (VAT) of 10% on equipment used to bring a given mine into production, except on equipment to be used in the production of highly processed mining products. For example, if OT decides to smelt copper, imported equipment for the production of metallic copper might qualify for a 10% reduction on VAT. However, in an effort to promote value-added production in Mongolia, the GOM defines the production of copper concentrate as a non-value-added output; and so, equipment imported only to concentrate copper ore would not qualify for the 10% VAT exemption.

Most jurisdictions, recognizing that most mines have long development lead times before production begins, either waive or do not tax such imports at all. Parliament, with no consultation with investors, international experts, or its own tax officials, chose to impose the VAT, which immediately makes Mongolian mining costs 10% higher than they would otherwise be, impairing competitiveness and dramatically varying from global practice.

Whether any mining output qualifies for this exemption seems completely at the discretion of the GOM, which has not set out in regulation or statute a process by which it will regularly adjudicate such VAT exemption requests.

Social Insurance Taxes

Foreign and domestic investors consistently argue that they bear too much of the social security costs for each domestic and foreign hire under the amended 2008 *Social Insurance Law*. Foreign employees became liable for social insurance taxes if they reside within Mongolia for 181 days within a 365 day period. Employers must pay a tax equivalent to 13% of the annual wage on both domestic and foreign workers. Given that average state pension has yet to broach even US$150 per month, employers argue that pensions are not commensurate with contributions. In addition, workers must pay in for twenty years to be vested, highly unlikely for many ex-patriot employees, who reside in Mongolia for less than three years on average. Local and foreign business associations are attempting to work with both the government and Parliament to address these perceived inequalities.

OPIC and Other Investment Insurance Programs Return to top

The U.S. government's Overseas Private Investment Corporation (OPIC: (www.opic.gov) offers loans and political risk insurance to American investors involved in most sectors of the Mongolian economy.

In addition, OPIC and the GOM have signed and ratified an *Investment Incentive Agreement* that requires the GOM to extend national treatment to OPIC financed projects in Mongolia. For example, under this agreement mining licenses of firms receiving an OPIC loan may be pledged as collateral to OPIC, a right not normally bestowed on foreign financial entities.

The U.S. Export-Import Bank (EXIM: www.exim.gov) offers programs in Mongolia for short-, medium-, and long-term transactions in the public sector and for short- and medium-term transactions in the private sector.

Mongolia is a member of the Multilateral Investment Guarantee Agency (MIGA: www.miga.org).

Labor Return to top

The Mongolian labor pool is generally educated, young, and adaptable, but shortages exist in most professional categories requiring advanced degrees or vocational training. Only time and investment in education and training will remedy this deficit of trained, skilled labor. Unskilled labor is sufficiently available.

Foreign-invested companies deal with these shortages by providing in-country training to their staffs, raising salaries to retain employees, or hiring expatriate workers to provide skills and expertise unavailable in Mongolia. In addition, the USG funded Millennium Challenge Corporation (MCC) is currently underwriting a five-year training and vocational education program (TVET) to develop sustainable programs to help Mongolia meet its needs for skilled *blue- collar* workers (http://www.mca.mn or http://www.mcc.gov).

Mongolian labor law is not particularly restrictive. Investors can locate and hire workers without using hiring agencies—as long as hiring practices are consistent with the Mongolian Labor Law. However, Mongolian law requires companies to employ Mongolian workers in all labor categories whenever a Mongolian can perform the task as well as a foreigner. This law generally applies to unskilled labor categories and not areas where a high degree of technical expertise nonexistent in Mongolia is required. The law does provide an escape hatch for employers. Should an employer seek to hire a non-Mongolian laborer and cannot obtain a waiver from the Ministry of Labor for that employee, the employer can pay a monthly waiver fee. Depending on a project's importance, the Ministry of Labor can exempt employers from 50% of the waiver fees per worker. However, employers report that difficulty in obtaining waivers, in part because of public concerns that foreign and domestic companies are not hiring Mongolians at an *appropriate level*.

Impact of the Strategic Entities Foreign Investment Law (SEFIL) on Labor

The recently passed SEFIL has raised concerns among employers that they will not be free to hire the labor they need in the three affected sectors of resource extraction, banking and finance, and media and telecommunications. One of SEFIL's key provisions requires foreign investors to use Mongolian labor and apparently allows the GOM to intervene in hiring and firing and related labor policies as a condition of authorizing foreign investment into the relevant sector. How this legislative remit will be implemented through the regulations remains unclear; however, investors have conveyed that they have little appetite to cede broad control over their workforces to the GOM. For a fuller discussion of SEFIL see Chapter A.1.

***ILO conventions* (http://www.ilo.org):**

Convention	Ratification date	Status
C29 Forced Labor Convention, 1930	15:03:2005	ratified
C59 Minimum Age (Industry) Convention (Revised), 1937	03:06:1969	denounced on 16:12:2002
C87 Freedom of Association and Protection of the Right to Organize Convention, 1948	03:06:1969	ratified
C98 Right to Organize and Collective Bargaining Convention, 1949	03:06:1969	ratified
C100 Equal Remuneration Convention, 1951	03:06:1969	ratified
C103 Maternity Protection Convention (Revised), 1952	03:06:1969	ratified
C105 Abolition of Forced Labor Convention, 1957	15:03:2005	ratified
C111 Discrimination (Employment and Occupation) Convention, 1958	03:06:1969	ratified
C122 Employment Policy Convention, 1964	24:11:1976	ratified
C123 Minimum Age (Underground Work) Convention, 1965	03:12:1981	ratified
C135 Workers' Representatives Convention, 1971	08:10:1996	ratified
C138 Minimum Age Convention, 1973	16:12:2002	ratified
C144 Tripartite Consultation (International Labor Standards) Convention, 1976	10:08:1998	ratified
C155 Occupational Safety and Health Convention, 1981	03:02:1998	ratified
C159 Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983	03:02:1998	ratified
C182 Worst Forms of Child Labor Convention, 1999	26:02:2001	Ratified

Foreign-Trade Zones/Free Ports

Return to top

The Mongolian government launched its free trade zone (FTZ) program in 2004. Two FTZ areas are located along the Mongolia spur of the trans-Siberian highway: one in the north at the Russia-Mongolia border town of Altanbulag and the other in the south at the Chinese-Mongolia border at the town of Zamyn-Uud. Both FTZs are relatively inactive, with development pending at either site. A third FTZ is located at the port of entry of Tsagaan Nuur in Bayan-Olgii province.

There are concerns about the Mongolian free trade zones in general and Zamyn-Uud in particular. In April 2004, the USAID sponsored Economic Policy Reform and Competitiveness Project (EPRC: http://www.eprc-chemonics.biz/) made the following observations of Mongolia's FTZ Program. In 2013, these issues remain concerns:

1. Benchmarking of Mongolia's FTZ Program against current successful international practices shows deficiencies in the legal and regulatory framework as well as in the process being followed to establish FTZs in the country.

2. Lack of implementing regulations and procedural definitions encapsulated in transparency and predictability quotient required to implement key international best practices.

3. A process of due diligence, including a cost-benefit analysis, has not been completed for the proposed FTZs.

4. Identifiable funding is not in place to meet off-site infrastructure requirements for the three FTZ sites.

5. Deviations from international best practices in the process of implementing FTZs repeats mistakes made in other countries and may lead to "hidden costs" or the provision of subsidies that the government of Mongolia did not foresee or which will have been granted at the expense of higher priorities.

Foreign Direct Investment Statistics Return to top

The Foreign Investment Registration and Review Department of the Ministry of Economic Development (FIRRD), the successor to the Foreign Investment and Foreign Trade Agency (FIFTA), collects and disseminates data for tracking foreign direct investment (FDI) in Mongolia, but FIRRD's data has limitations.

- Many foreign firms provide FIRRD with incomplete data on their annual investment amounts. FIRRD's registration regime requires companies to document business plans and total FDI for the coming year. FIRRD uses these reports to determine FDI for the year. However, concerns in the business community that FIRRD cannot secure proprietary and confidential business information means that many firms withhold data on their activities.

- Mongolia suffers from promised investment that does not materialize or which comes in at a lower level than originally stated. FIRRD does not update reports to account for these or other changes to investments during the year.

- Some investors claim certain jurisdictions as tax homes to minimize taxes, a fact not conveyed by FIRDD's data. Consequently, this data suggests that much of Mongolia's investment originates from such places as the British Virgin Islands, the Netherlands, or Singapore, when, in fact, the investment comes from Canada, the United States, Australia or other jurisdictions.

Data not Available on Mongolian Investment Abroad

A. TRADE TURNOVER (USD MLN.)

Year	Total Turnover	Percent comp.	Exports	Percent comp.	Imports	Percentage comp.	Balance
2000	**1,150**	**119%**	**536**	**118%**	**615**	**120%**	**-79**
2001	1,159	101.%	513	97%	638	104%	-116
2002	1,215	105%	524	101%	691	108%	-166
2003	1,417	117%	616	116%	801	116%	-185
2004	1,891	133%	870	141%	1,021	128%	-152
2005	2,249	119%	1,065	122%	1,184	116%	-120
2006	3,018	134%	1,529	144%	1,489	126%	39
2007	4,119	136%	1949	126%	2,170	146%	-221
2008	6,155	149%	2,539	130%	3,616	167%	-1077

Source: National Statistics Commission of Mongolia, December 2009, 2010

B. TOP 10 INVESTOR COUNTRIES (THOUSAND USD)

№	Countries	%	Total	1990-2004	2005	2006	2007	2008	2009	2010	2011	2012.06
1	China	31.71	**3,650,996.96**	441,786.38	227,922.28	172,014.03	339,614.67	497,800.88	613,058.80	176,038.36	1,015,265.04	167,496.52
2	Netherlands	23.16	**2,667,036.01**	5,265.58	221.70	475.86	58.50	4,069.20	51,028.60	232,962.18	1,816,714.10	556,240.28
3	Luxemburg	9.01	**1,037,196.26**	2,911.70	1,809.30	10.00	3,118.91	195.80	1,012.65	25,589.47	476,652.07	525,896.34
4	UK Virgin Islands	7.48	**861,441.27**	48,394.23	5,033.92	6,111.67	35,449.00	6,157.89	19,305.18	101,986.27	610,933.11	28,070.02
5	Singapore	5.45	**627,075.05**	8,513.28	4,645.78	728.60	700.00	32,339.86	9,359.44	31,075.00	402,738.17	136,974.92
6	Canada	4.23	**487,595.94**	174,206.58	1,542.25	72,180.37	497.15	2,739.57	1,028.00	147,811.12	72,288.16	26,950.22
7	South Korea	2.93	**337,736.42**	85,180.14	19,004.49	16,434.78	22,991.38	41,765.41	31,673.98	38,763.43	54,972.59	26,950.22
8	USA	2.54	**292,657.89**	45,725.48	5,564.06	37,165.78	4,285.67	6,466.89	2,571.52	13,911.20	127,238.95	49,728.36
9	Hong Kong SAR	1.80	**207,007.21**	25,033.35	773.02	350.50	8,255.51	1,757.81	11,032.44	80,148.35	54,366.84	25,289.38
10	Japan	1.60	**184,752.21**	66,208.26	5,840.80	4,727.59	2,450.10	46,623.46	5,594.78	7,125.37	21,460.68	24,721.16

Source: FIRRD

C. TOP 25 INVESTOR ENTITIES (FDI – 2010)

No	Entity	Equity	Foreign	Domestic	Sectors	Countries
1.	Oyutolgoi	***65,005,920***	*65,005,913*	-	Geological prospecting and exploration	Netherlands-Mongolia
2.	MD Securities	***43,603,000***	*43,500,000*	-	Trade and catering service	Virgin Islands (UK)
3.	MCS mining	***25,100,000***	*25,000,000*	-	Geological prospecting and exploration	Singapore
4.	HSBC	***10,000,000***	*9,990,000*	-	Others	South Korea
5.	Wagner Asia Leasing	***9,890,224***	*9,890,224*	-	Trade and catering service	USA
6.	Seoul Senior Tower	***7,840,000***	*7,140,000*	-	Health and beauty services	South Korea
7.	Khan Bank	***20,599,356***	*7,073,699*	*3,393,576*	Bank and financial services	USA-China /Hong Kong/-Japan-Mongolia
8.	Gyantbaylag	***7,000,000***	*7,000,000*	-	Geological prospecting and exploration	Virgin Islands (UK)
9.	Globalcom	***4,500,000***	*4,500,000*	-	Trade and catering service	Virgin Islands (UK)
10.	Louis Vuitton Mongolia LLC	***6,000,000***	*4,000,000*	-	Trade and catering service	France
11.	Credit Bank	***9,585,108***	*3,900,686*	-	Bank and financial services	Cyprus
12.	MCS Asia Pacific	***15,000,000***	*3,850,000*	*3,150,000*	Production of foods and beverages	Singapore-Mongolia
13.	Shangri-La Ulaanbaatar Hotel	***10,000,000***	*3,820,000*	-	Trade and catering service	Virgin Islands (UK)
14.	EAM Bayan-Ulgii	***3,548,107***	*3,538,107*	-	Geological prospecting and exploration	Canada
15.	Handy Soft Rich	***3,000,000***	*2,900,000*	-	Trade and catering service	South Korea
16.	Tethys Mining	***26,992,495***	*2,793,974*	-	Geological prospecting and exploration	Switzerland
17.	Big Mogul Coal and Energy	***4,627,722***	*2,776,633*	*1,851,089*	Geological prospecting and exploration	Luxemburg-Mongolia
18.	Hong Kong Sunkfa group Mongol	***1,600,000***	*1,600,000*	-	Transportation	China-China /Hong Kong/
19.	EAM Exploration	***1,511,710***	*1,501,710*	-	Geological prospecting and exploration	Canada
20.	Santanmores	***5,300,000***	*1,500,000*	-	Geological prospecting and exploration	South Korea

Source: FIRRD

D. FDI by COUNTRY in 1000s USD (*Source: FIRRD)*

№	Country	%	Total	1990-2004	2005	2006	2007	2008	2009	2010	2011	2012.06.30
1	China	32,71	**3,650,996,96**	441,786,38	227,922,28	172,014,03	339,614,67	497,800,88	613,058,80	176,038,36	1,015,265,04	167,496,52
2	Netherlands	23,16	**2,667,036,01**	5,265,58	221,70	475,86	58,50	4,069,20	51,028,60	232,962,18	1,816,714,10	556,240,28
3	Luxemburg	9,01	**1,037 196,24**	2,911,70	1,809,30	10,00	3,118,917	195,80	1,012,65	25,589,47	476,652,07	525,896,34
4	UK Virgin Islands	7,48	**861,441,29**	48,394,23	5,033,92	6,111,67	35,449,00	6,157,89	19,305,18	101,986,27	610,933,11	28,070,02
5	Singapore	5,45	**627,075,05**	8,513,28	4,645,78	728,60	700,00	32,339,86	9,359,44	31,075,00	402,738,17	136,974,92
6	Canada	4,23	**487,595,95**	174,206,58	1,542,25	72,180,37	497,15	2,739,57	1,028,00	147,11,12	72,288,16	15,302,75
7	South Korea	2,93	**337,736,42**	85,180,14	19,004,49	16,434,78	22,991,38	41,765,41	31,673,98	38,763,43	54,972,59	26,950,22
8	USA	2,54	**292,657,91**	45,25,48	5,564,06	37,165,78	4,285,67	6,466,89	2,571,52	13,911,20	127,238,95	49,728,36
9	China /Hong Kong /	1,80	**207,007,21**	25,033,35	773,02	350,50	8,255,51	1,757,81	11,032,44	80,148,35	54,366,84	25,289,38
10	Japan	1,60	**184,752,21**	66,208,26	5,840,80	4,727,59	2,450,10	46,623,46	5,594,78	7,125,37	21,460,68	24,721,16
11	Australia	1,52	**174,466,09**	3,730,19	12,066,75	384,40	289,20	3,361,90	516,50	2,273,80	82,453,32	69,390,03
12	Russia	1,46	**168,507,92**	37,163,16	7,450,14	11,654,52	39,774,38	3,795,42	6,139,20	2,273,18	58,11,87	2,246,04
13	Bermuda	1,12	**128 814,85**	1,604,48	4,962,86		30,30	6,46		114,455,56	4,387,49	3,367,70
14	Switzerland	0,76	**87,272,09**	5,732,89	2,563,50	6,676,45	366,52	90,00	22,190,40	3,850,22	37,161,16	8,640,94
15	Great Britain	0,67	**76,577,25**	25,813,22	6,347,90	9,013,47	2,429,00	6,057,76	972,15	693,07	17,910,90	7,339,78
16	Cayman Islands	0,64	**74 052,36**	264,02		2,400,00		35,069,33	321,45	10,363,06	25,404,54	229,97
17	Germany	0,51	**58,537,49**	10,369,80	370,20	1,386,27	817,49	580,01	13,281,00	932,64	26,631,80	4,168,29
18	France	0,38	**43,414,07**	326,99	35,00	66,30	12,550,00	170,08	2,376,34	4,499,79	15,050,66	8,338,91
19	Barbados	0,35	**40,348,83**	20,00	10,00						30,098,89	10,219,94
20	Bulgaria	0,27	**31,067,98**	30,778,48		17,00	15,00	7,50		50,00	150,00	50,00
21	Vietnam	0,22	**24,972,54**	505,80	321,67	20,448,54	674,73	1,270,11	442,00	780,00	519,70	100,00
22	Italy	0,21	**24,533,70**	8,265,85	5,219,43	44,90	37,50	856,97	340,00	448,00	4,482,74	4,838,32
23	China /Taiwan/	0,17	**20,096,05**	11,123,37	474,75	20,10	590,80	6,443,49	997,50	161,30	99,74	185,00
24	Islands of Saint Kitts & Nevis	0,17	**19,908,26**	5,00			10,00		173,70	19,529,56	90,00	100,00
25	Malaysia	0,16	**18,509,75**	4,529,19	2,993,00	711,60	60,75	5,340,69	445,12	331,50	2,882,37	1,215,53
26	The Bahamas	0,15	**17,638,29**	17,435,79		102,00				90,00	10,50	
27	Kazakhstan	0,14	**16,221,88**	551,76	35,30	31,30	11,522,22	214,57	1,515,00	418,00	1,195,19	738,54
28	Portugal	0,12	**13,506,00**	13,506,00								
29	Cyprus	0,10	**11,797,52**	244,08		10,00	7,091,52	71,00	190,00	4,001,05	100,00	89,87
30	Mauritius	0,09	**10,068,59**			12,00					9,950,91	105,68

№	Country	%	Total	1990-2004	2005	2006	2007	2008	2009	2010	2011	2012.06.30
31	Israel	0,08	**9,111,34**	8,094,91	10,00	20,00	23,70	15,00		193,07	754,66	
32	Czech Republic	0,07	**8,636,04**	4,145,87	24,00	52,22	80,61	2,015,04	80,00	436,00	457,47	1,344,83
33	Ukraine	0,07	**8,053,04**	6,148,12	24,95	89,90	66,90	45,00	725,63	190,04	502,50	260,00
34	India	0,07	**7,602,69**	334,00	10,00	128,00	4,925,00	690,00	1,155,00	285,69	75,00	
35	Turkey	0,06	**7,388,48**	1,910,27	80,00	32,00	114,30	338,60	514,50	379,00	2,259,35	1,760,46
36	New Zealand	0,06	**7,309,59**	2,489,20	1,139,60	60,00	225,95	1,706,28	580,00	100,00	759,58	249,00
37	Belgium	0,06	**6,570,94**	2,744,72		2,190,90	134,46	75,00	27,62	100,00	807,43	490,80
38	China /Macao/	0,04	4,461,00	4,461,00								
39	Lichtenstein	0,03	3,336,45	3,336,45								
40	Thailand	0,02	**2,787,10**	76,00				3,00	108,10	100,00	2,500,00	
41	Poland	0,02	**2,456,15**	1,780,26	10,00	16,00	20,00	10,00	150,00	50,00	319,89	100,00
42	Austria	0,02	**2,335,14**	1,984,85	10,00	101,87	6,40	191,52		40,50		
43	Hungary	0,02	**2,335,00**	1,162,48	12,71	54,20	18,00		240,00	408,29	203,40	235,92
44	Spain	0,02	**2,042,42**	59,60		20,00	10,00				1,702,82	250,00
45	Uzbekistan	0,02	**1,973,57**		3,20			100,00	756,10	845,00	269,28	
46	DPRK	0,01	**1,661,28**	1,162.61	66,50	22,75	50,00			100,00	159,42	100,00
47	Philippines	0,01	**1,606,89**				4,90				90,00	1,511,99
48	Panama	0,01	**1,457,15**	1,055,45	7,70				100,00	130,50	163,50	
49	Syria	0,01	**1,432,02**	285,89	5,10	15,00		105,00			1,021,03	
50	Slovakia	0,01	**1,372,06**	869,06		273,00	50,00					180,00
51	British Guernsey Island	0,01	**1 267,61**								417,65	849,96
52	British Man Island	0,01	**1,119,96**							200,00	839,97	79,99
53	Pakistan	0,01	**931,05**	698,95	15,00	6,00	21,10	80,00		110,00		
54	Belize	0,01	**925,84**		13,00	175,88			85,00	102,00	199,99	349,97
55	Kyrgyzstan	0,01	**820,50**	469,50	1,00				120,00	60,00	80,00	90,00
56	Antigua & Barbuda	0,01	**729,86**	729,86								
57	Seychelles Islands	0,01	**713,00**				10,00	17,00		43,00	100,00	543,00
58	Lebanon	0,01	**687,443**	134,94		7,92					333,74	210,84
59	Belarus	0,01	**684,96**	27,00				56,00		186,06	314,90	101,00
60	Sweden	0,01	**670,64**	13,10	10,90		466,00	30,00	40,10	100,00		10,54
61	Denmark	0,01	**592,27**	90,30							141,97	360,00
62	Malta	0,00	**547,14**								252,09	295,05
63	Ireland	0,00	**533,23**	46,25	9,00		9,00		76,54	179,35	213,10	
64	Bangladesh	0,00	**515,00**				10,00		105,00	100,00	200,00	100,00
65	Mauritania	0,00	**510,00**					30,00	480,00			
66	Slovenia	0,00	**479,42**								230,99	248,43
67	United Arab Emirates	0,00	**475,49**								375,39	100,00
68	Iran	0,00	**453,00**		18,00		2,00			233,00	100,00	100,00

№	Country	%	Total	1990-2004	2005	2006	2007	2008	2009	2010	2011	2012.06.30
№	Anguilla	0,00	**400,00**							200,00	200,00	
70	Azerbaijan	0,00	**350,00**				20,00			190,00	140,00	
71	Indonesia	0,00	**319,95**			20,00			84,00		215,95	
72	Gibraltar	0,00	**291,00**	176,00	15,00					100,00		
73	Norway	0,00	**287,68**	67,15	10,00	5,00	6,00	90,00		15,00	89,55	4,98
74	Yugoslavia	0,00	**285,07**	280,17	4,90							
75	Armenia	0,00	**270,05**	239,60	15,30	6,60		8,55				
76	Saudi Arabia	0,00	**198,30**	198,30								
77	Kuwait	0,00	**179,96**								179,96	
78	Cambodia	0,00	**168,30**		153,30	15,00						
79	Croatia	0,00	**14,600**	14,600								
80	Turkmenistan	0,00	**130,00**							30,00		100,00
81	South Africa	0,00	**126,00**								126,00	
82	Estonia	0,00	**119,00**	17,00								102,00
83	Iraq	0,00	**115,00**	15,00						100,00		
84	Samoa	0,00	**200,00**									200,00
85	Romania	0,00	**100,00**							100,00		
86	Georgia	0,00	**73,05**	18,05			5,00		50,00			
87	Finland	0,00	**71,53**	20,00	8,17	7,00		6,50			15,97	13,89
88	Argentina	0,00	**55,00**						55,00			
89	Greece	0,00	**49,00**	49,00								
90	Moldavia	0,00	**41,50**	39,00			2,50					
91	Qatar	0,00	**40,00**					10,00	30,00			
92	Nepal	0,00	**35,00**	5,00					30,00			
93	Egypt	0,00	**33,33**									33,33
94	Turks and Caicos Islands	0,00	**31,00**		3,10					27,90		
95	Tajikistan	0,00	**30,00**	10,00	10,00	10,00						
96	Sri Lanka	0,00	**28,00**					28,00				
97	British Indian Ocean territory	0,00	**25,00**			25,00						
98	Jordan	0,00	**24,93**	21,60		3,33						
99	Liberia	0,00	**20,50**	20,50								
100	Morocco	0,00	**20,00**					20,00				
101	Honduras	0,00	**19,50**	13,50	6,00							
102	Serbia Montenegro	0,00	**15,00**	8,25	6,75							
103	Cameroon	0,00	**12,00**	12,00								
104	Latvia	0,00	**10,00**	10,00								
105	Marshall Islands	0,00	**10,00**	10,00								
106	Myanmar	0,00	**10,00**		10,00							
107	Outlying Islands	0,00	**10,00**			10,00						
108	Saint Helena	0,00	**6,00**		6,00							

№	Country	%	Total	1990-2004	2005	2006	2007	2008	2009	2010	2011	2012.06.30
109	Dominion of Melchizedek	0,00	**5,61**	5,61								
110	Nigeria	0,00	**5,00**	5,00								
111	Ethiopia	0,00	**2,50**	2,50								
112	US Virgin Islands	0,00	**2,00**		2,00							
	TOTAL	**100**	**11,514763,21**	**1,129,894,91**	**316,839,28**	**366,545,00**	**499,962,11**	**708,922,55**	**801,158,33**	**1,025,995,88**	**4,986,034,12**	**1,688,410,45**

E. Foreign Invested Companies by Country

№	Country	%	Total	1990-2004	2005	2006	2007	2008	2009	2010	2011	2012.06.30
1	China	49,11	**5,951**	1,534	532	827	876	859	299	376	434	214
2	Korea	17.82	**2,159**	632	203	274	332	302	113	117	122	64
3	Russia	6.74	**817**	433	54	105	72	51	37	17	34	14
4	Japan	4,19	**508**	190	29	56	60	58	35	23	35	22
5	USA	2,38	**288**	98	19	28	27	44	11	14	36	11
6	UK Virgin Islands	2.01	**243**	27	9	12	26	17	23	37	67	25
7	Germany	1,57	**190**	102	10	18	13	13	8	7	9	10
8	Singapore	1,45	**176**	52	9	5	10	21	4	22	31	22
9	China /Hong Kong/	1,33	**161**	54	9	5	10	14	10	27	20	12
10	Vietnam	1,28	**155**	25	14	34	46	21	3	8	3	1
11	Great Britain	1,12	**136**	61	14	12	10	15	4	5	12	3
12	Canada	0.99	**120**	38	8	13	10	17	9	13	8	4
13	Australia	0.89	**108**	18	5	8	12	4	4	21	21	15
14	Czech Republic	0.61	**74**	40	3	7	8	4	1	4	2	5
15	Malaysia	0,54	**65**	17	8	9	3	11	5	7	3	2
16	Ukraine	0,47	**57**	21	1	12	7	3	3	1	7	2
17	Kazakhstan	0,47	**57**	16	3	4	11	5	1	5	9	3
18	Turkey	0.45	**55**	18	4	3	4	8	5	4	6	3
19	China /Taiwan/	0,45	**54**	33	1	3	6	7	2		1	1
20	France	0,45	**54**	14	2	12	4	9	3	4	4	2
21	Netherlands	0.44	**53**	14	3	2	6	7	6	4	6	5
22	Switzerland	0,41	**50**	25	2	3	4	3	3	1	4	5
23	Italy	0,40	**48**	15	3	2	4	13	3	4	4	
24	Pakistan	0,63	**31**	31	1	2	4	4		2		
25	India	0,26	**31**	5	1	5	11	4	1	3	1	
26	Poland	0,24	**29**	16	1	2	2	1	2	1	3	1
27	New Zealand	0.24	**29**	11	1	3	2	3	1	1	4	3
28	Luxemburg	0,20	**24**	2		1		2	1	5	8	5
29	Hungary	0,20	**24**	7	1	5	3		3	4		1
30	Bulgaria	0,17	**21**	12		2	2	1		1	2	1
31	Austria	0,15	**18**	7	1	2	2	6				
32	DRPK	0,14	**17**	9	1	2	1			1	2	1
33	Belgium	0,13	**16**	7		4	2	1		1		1
34	Israel	0,12	**15**	7	1	3	2	2				
35	Bermuda	0,11	**13**	8		3	2					
36	Syria	0,10	**12**	10				2				
37	Uzbekistan	0,10	**12**		1			1	2	6	2	
38	The Bahamas	0,09	**11**	8		2				1		
39	Antigua & Barbuda	0,09	**11**	11								
40	Spain	0,10	**11**	6		1					2	3
41	Cyprus	0,08	**8**				5	3	1		1	
42	Belarus	0,07	**8**	2				1		3	1	1
43	Kyrgyzstan	0,07	**7**	4					1	1	1	1

№	Country	%	Total	1990-2004	2005	2006	2007	2008	2009	2010	2011	2012.06.30
44	Bangladesh	0.06	**7**				1		1	1	2	2
45	Iran	0,06	**7**		2					3	1	1
46	Sweden	0,06	**7**	2	1		1	2		1		
47	Cayman Islands	0,06	**7**	2		3		1	1			
48	Slovakia	0,06	**6**	3		2	2					
49	Siyal Islands	0.05	**6**				1	2			1	2
50	Barbados	0.05	**6**	2	1						1	2
51	Lebanon	0,05	**5**	3		1					1	1
52	Thailand	0,04	**5**	2					1	1	1	
53	Panama	0,04	**5**	3					1		1	
54	Norway	0,04	**4**	2	1	1	1					
55	Estonia	0.03	**4**	1		1						2
56	Arab United Emirates	0.03	**4**									2
57	Anguilla	0.03	**4**							2	2	
58	Ireland	0.03	**4**				1			1	2	
60	Gibraltar	0,03	**4**	1	2					1		
61	Yugoslavia	0,03	**4**	4								
62	Saudi Arabia	0,03	**3**	4								
63	Saint Kits and Nevis	0.02	**3**	1						1		1
64	Denmark	0.02	**3**		1					1		1
65	Mauritius	0.02	**3**		1						2	
66	Azerbaijan	0.02	**3**				1			1	1	
67	Indonesia	0.02	**3**	1					1		1	
68	Belize	0,02	**3**		2					1		
69	Mauritania	0,02	**3**					3				
70	Moldavia	0,02	**3**	2			1					
71	Jordan	0,02	**2**	3								
72	South Africa	0,02	**2**								2	
73	Philippines	0,02	**2**				1				1	
74	Isle of Man	0,02	**2**							2		
75	Iraq	0,02	**2**	1						1		
76	Georgia	0,02	**2**		1				1			
77	Qatar	0,02	**2**					1	1			
78	Sri Lanka	0,02	**2**					2				
79	Armenia	0,02	**2**		1			1				
80	Tajikistan	0,02	**2**	1		1						
81	Ethiopia	0,02	**2**	1		1						
82	China /Macao/	0,02	**2**	2								
83	Samoa	0.01	**1**									1
84	Egypt	0.01	**1**									1
85	British Guernsey Island	0.01	**1**								1	
86	Kuwait	0.01	**1**								1	
87	Turkmenistan	0,02	**2**							1		1
88	Romania	0,01	**1**							1		
89	Nepal	0,01	**1**						1			
90	Argentina	0,01	**1**						1			
91	Finland	0,01	**1**					1				
92	Morocco	0,01	**1**					1				
93	Marshall Islands	0,01	**1**			1						
94	Myanmar	0,01	**1**		1							
95	Turks and Caicos Islands	0,01	**1**		1							
96	Cambodia	0,01	**1**		1							
97	Honduras	0,01	**1**									
98	Portugal	0,01	**1**	1								
99	Lichtenstein	0,01	**1**	1								
100	Croatia	0,01	**1**	1								

№	Country	%	Total	1990-2004	2005	2006	2007	2008	2009	2010	2011	2012.06.30
101	Greece	0,01	**1**	1								
102	Serbia Montenegro	0,01	**1**	1								
103	Cameroon	0,01	**1**	1	1							
104	Latvia	0,01	**1**	1								
105	Dominion of Melchizedek	0,01	**1**	1								
106	Nigeria	0,01	**1**	1								
107	Malta	0.00	**0**	-								
108	British Indian Ocean territory	0,00	**0**	-								
109	Slovenia	0.00	**0**	-								
110	Minor Outlying Islands	0,00	**0**	-								
111	Saint Helena	0,00	**0**	-								
112	US Virgin Islands	0,00	**0**	-								
	TOTAL	**100**	**12,118**	3,691	971	1,505	1,609	1,551	613	769	933	476

Source: FIRRD

Web Resources Return to top

Mongolian Resources

Business Council of Mongolia: www.bcm.org

Embassy of Mongolia, Washington, DC: http://www.mongolianembassy.

Foreign Investment Regulation and Registration Department: http://www.investmongolia.com/

Government of Mongolia: http://www.pmis.gov.mn

Intellectual Property Office: http://www.ipom.mn/

Mongol Chamber of Commerce and Industry: http://www.mongolchamber.mn/en/

Parliament of Mongolia: www.parl.gov.mn

U. S. Embassy Resources

Senior Commercial Specialist: richmondmd@state.gov

U.S. Embassy, Ulaanbaatar: http://mongolia.usembassy.gov

U.S. Department of State: http://www.state.gov/

U.S. Department of Commerce: http://www.commerce.gov/

U.S. International Trade Administration: http://www.trade.gov/

U.S. Trade and Development Agency: http://www.ustda.gov

U.S. Export-Import Bank: http://www.exim.gov/

EXIM Country Limitation Schedule: http://www.exim.gov/tools/country/country_limits.html

U.S. Overseas Private Investment Corporations: http://www.opic.gov

U.S. Department of State: http://www.state.gov/

Small Business Administration's Office of International Trade: http://www.sba.gov/oit/

USDA Commodity Credit Corporation: http://www.fsa.usda.gov/ccc/default.htm

Return to table of contents

Return to table of contents

Chapter 7: Trade and Project Financing

How Do I Get Paid (Methods of Payment) Return to top

Cash is the most common method of payment, although electronic payments are becoming more common. Although the Tugrik is the official currency for all domestic transactions, dollars may be used for some exchanges. These payments can be in hard currency or through wire transfers into and from Mongolian-bank accounts. Letters of credit remain hard to obtain due to weaknesses in banking supervision and difficulties in collecting on defaults.

Pay-as-one- goes should be the mantra for American investors active in Mongolia. We do not recommend paying in advance or extending credit until a clear record of trust and successful transactions exists. Tight control of finance and procurement is recommended.

There are no private collection or credit rating agencies currently active in Mongolia.

How Does the Banking System Operate Return to top

The banking system has become more efficient and reliable, although supervision lags and some banks do not measure up to international standards. Prior to 1991, no western-style commercial or central banking system existed in Mongolia. The State Bank was the only bank in Mongolia. In October 1990, the Mongolian Government, in line with free market economic reforms, dissolved the State Bank.

In 1991, Mongolia enacted a new banking law to create a western-style banking system. The law re-organized the banking system into a two-tier structure. The Bank of Mongolia or Mongol Bank acts as the central bank, implementing monetary policy. Other private and public banks provide commercial services.

The Trade and Development Bank (TDB), Golomt Bank, and Khan Bank are the three largest commercial.

A foreign company or organization (such as a joint venture or wholly owned firm) may open an account by presenting the following information to their bank:

1. Registration by the Foreign Investment Registration and Regulation Department (FIRRD) \
2. Authorization from the Ministry of Finance.
3. A letter requesting the account.

A private foreign individual may open an account upon written request. Banks usually have forms that serve as written requests. A passport is required.

Exchange Services

Mongolian banks provide exchange services for all amounts; however, larger amounts may be subject to regulatory delays or delays due to currency availability.

Transfers and Withdrawals

Most of Mongolia's banks make international money transfers. The three largest banks maintain correspondent relations with several foreign banks and maintain accounts in major world currencies with several of them. Clients may transfer money into and out of their domestic accounts, subject to domestic reporting requirements. There are no set limits on the amount that may be withdrawn from an account. The bank charges a small commission on cash withdrawals in hard currency. There is no commission on cash withdrawals in Tugriks at the day's buying rate. The bank charges a commission on all transfers of hard currency within Mongolia and to other banks abroad.

Most banks will cash personal checks but that process can take up to one month while the bank waits for the check to clear. The check casher will not have access to the funds until the check clears.

Travelers' Checks, Credit Cards, and ATMs

The Trade and Development Bank is one of the main banks that cashes and sells American Express, Thomas Cook, Visa, and MasterCard U.S. dollar-denominated travelers' checks. The bank sells travelers' checks for U.S. dollars without commission. There is a commission on drawing travelers' checks from an account. The checks may be cashed for Tugriks with no commission charge. If cashed for hard currencies or deposited into an account, the client pays a small commission.

Major hotels accept American Express, Visa, Master Card, and JCB credit cards. More major stores, restaurants, and travel agencies also accept credit cards. Most banks offer cash advances on major credit and charge cards. Most banks maintain ATMs that allow cash withdrawals through international networks. Merchants can add a 3 %- 4% surcharge on both credit and charge card purchases.

Foreign-Exchange Controls Return to top

The tugrik (MNT) is the national currency of Mongolia and the only legal currency. Since July 1996 and renewed in 2009 legislation, all cash payments and transactions are made in Tugriks (with exceptions for certain bank and government transactions). Mongolia maintains a floating exchange rate policy. Over the past several years, the exchange rate has been relatively stable. In August 2013, the rate was approximately US $1 = 1,563 MNT. Individuals may exchange money at authorized currency exchange points, as well as at banks and hotels. English language newspapers and radio and TV programs regularly report exchange rates.

There are no foreign exchange controls affecting either investment or trade in Mongolia. Infrequently, the commercial banking system has shortages of dollars that slightly delay remittances. The local currency, the Tugrik, floats freely. Several banks and exchange kiosks are licensed by the BOM to engage in foreign currency exchange. Large transactions are subject to government reporting requirements.

U.S. Banks and Local Correspondent Banks Return to top

International Service Banks in Mongolia

Khan Bank of Mongolia: https://www.khanbank.com/en.html

Tel: 976-11-332-333
Fax: 976-7011-7023
Hotline: 1917

Seoul Street-25
PO.BOX-192, Ulaanbaatar-44
Mongolia

Golomt Bank: http://www.golomtbank.com/en/home/site-map/

Tel: 976-7011-7676
Fax : 976-11-312-307; 311-958
Hotline: 1646
Telex: 79247 GLMT MN

Sukhbaatar Square
Ulaanbaatar 210620
Mongolia

Trade and Development Bank: http://www.tdbm.mn
Hot Line: 1977
Fax: +976 70161988

Juulchin street - 7,
Baga toiruu – 12
Chingeltei District, Ulaanbaatar
Mongolia

Project Financing Return to top

In Mongolia's market economy, there are many ways to finance imports. The most common is the letter of credit. The Trade and Development Bank and Golomt Bank are familiar with letters of credit, as are major importers/distributors in Mongolia. However, credit tends to be quite tight in Mongolia. Many domestic and foreign investors seek financing outside Mongolia.

Sources of financing available for US exporters and investors are:

THE WORLD BANK (www.worldbank.org or www.worldbank.org/mn **):**

The World Bank, based in Washington, D.C., publishes bidding opportunities in the United Nations publication "Development Business." Available by subscription from United Nations, PO Box 5850, Grand Central Station, New York, New York 10163-5850.

The World Bank conducts procurement by the rules of international competitive bidding through Mongolian government agencies; nonetheless, successful bidding requires close coordination with the Mongolian government entity responsible for development of a project at the consulting stage, when specifications are being established. World Bank Mongolia can be contacted at (976-11) 312-647 or at eastasiapacific@worldbank.org.

THE INTERNATIONAL FINANCE CORPORATION (www.ifc.org or www.ifc.org/ifcext/eastasia.nsf/Content/mongolia **):**

IFC maintains an office in Ulaanbaatar and plans more activities in Mongolia. IFC's core business is financing projects with cash flows that can cover debt-service repayment to lenders and payment of dividends to shareholders. Such financing is without government guarantees. IFC can be contacted through its Washington, D.C. headquarters at (202) 473-1000 or at its Ulaanbaatar office (976-11) 312-694 or by email at Ntuyen@ifc.org.

ASIAN DEVELOPMENT BANK (www.adb.org **or** http://www.adb.org/Mongolia**):**

The ADB largely provides loans for infrastructure and agricultural projects. Once the ADB and the Mongolian government initially approve a project, it is included in a monthly publication called "ADB Business Opportunities." Available by subscription from the Publications Unit, Information Office, ADB, PO Box 789, Manila, Philippines, fax (632) 632-5122 or 632-5841.

The U.S. Commerce Department has established a multilateral development bank operations office (fax: 202/273-0927) that publishes information to assist companies in winning such contracts.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT (http://www.ebrd.com/pages/country/mongolia.shtml**):**

EBRD maintains an active portfolio in Mongolia in all sectors of the Mongolian economy. Contact the EBRD at Tel: (976 11) 317 974/298; Fax: + 976 11 315 844.

US TRADE AND DEVELOPMENT AGENCY (TDA: http://www.tda.gov **):**

The Trade and Development Agency occasionally participates in Mongolian projects. Once active sectors and potential projects are identified for possible feasibility study financing or technical assistance, TDA will hire its own technical consultant to review the project. TDA's basic criteria for project funding are:

- The project is a developmental priority of the host country
- There is a likelihood of project financing
- The US export potential is significant
- There is foreign competition for the project

Contact the US Trade and Development Agency at 1000 Wilson Boulevard, Suite 1600 Arlington, Virginia 22209, Tel: 703/875-4357, fax: 703/875-4009.

EXPORT-IMPORT BANK (EXIM: http://www.exim.gov), INTERNATIONAL FUNDING INFORMATION SERVICE (IFIS), AND THE OVERSEAS PRIVATE INSURANCE CORPORATION (OPIC: http://www.opic.gov)

Currently, EXIM and OPIC are open for Mongolian projects.

Web Resources Return to top

Mongolian Resources

Business Council of Mongolia: www.bcm.org

Embassy of Mongolia, Washington, DC: http://www.mongolianembassy.

Foreign Investment Regulation and Registration Department: http://www.investmongolia.com/

Government of Mongolia: http://www.pmis.gov.mn

Intellectual Property Office: http://www.ipom.mn/

Mineral Resources and Petroleum Authority of Mongolia: http://www.mram.mn

Mongol Chamber of Commerce and Industry: http://www.mongolchamber.mn/en/

Parliament of Mongolia: www.parl.gov.mn

U. S. Embassy Resources

Senior Commercial Specialist: richmondmd@state.gov

U.S. Embassy, Ulaanbaatar: http://mongolia.usembassy.gov

U.S. Department of Commerce: http://www.commerce.gov/

U.S. Export-Import Bank: http://www.exim.gov/

U.S. International Trade Administration: http://www.trade.gov/

U.S. Department of State: http://www.state.gov/

U.S. Overseas Private Investment Corporations: http://www.opic.gov

U.S. Trade and Development Agency: http://www.ustda.gov

Return to table of contents

Chapter 8: Business Travel

Business Customs Return to top

- Personal relationships in business are critical. The Mongolians like to deal with *old friends.* Exporters, importers and investors must establish and maintain close relationships with their Mongolian counterparts and relevant government agencies. Equally important, American exporters should encourage strong personal relationships between their Mongolian agents or distributors and the buyers and end-users. A web of strong personal relationships can smooth development of business in Mongolia.

- Family and school ties remain strong in Mongolia. Learn who is related to whom when establishing business connections.

- Mongolians look for cues of serious intent by how much effort—time and material—a foreign investor puts in the early phases. Initial meetings should be conducted in formal settings, in suit and tie, with an exchange of cards. Small gifts are always appreciated. Subsequent meetings can be more relaxed as circumstances permit. Lunches and dinners are always appreciated. However, expect and allow the Mongolians to be generous hosts, as this is an important part of local cultural. Being a good guest and business partner requires that one partake of the festivities at the start of any business relationship. However, to keep the relationship balanced from the start, we advise businesses to host a meal (s).

- New entrants to the Mongolian market tend to see Mongolians through the prism of their neighbors. That is, one may think that Mongolians are like the Chinese or the Russians or the Koreans, etc. While historical and cultural affinities exist between Mongolia and her neighbors, Mongolians are very conscious and proud of their history and the progress of their country over the last decades. They become offended if confused with China and deeply resent being compared to other developing countries with similar commodity-dependent economies—especially those from Africa. Rather they prefer to be compared to other former East-Bloc nations as Poland, Kazakhstan, Ukraine, the Czech Republic, etc.

- Avoid letting cultural sensitivity to Mongolian norms of doing business affect good judgment and common sense. Some Mongolians tell investors that Mongolian customs preclude using best commercial practices and adherence to laws and regulations, insisting that an attractive deal *will* go through if these are ignored. We advise investors to politely but firmly decline such proposals and adhere to sound business principles. Investors who do so will earn the respect of the Mongolians and may protect their investment over the long term.

Travel Advisory Return to top

For information on international travel, travel advisories, etc., please review the Department of State's website: http://travel.state.gov/travel/cis_pa_tw/cis/cis_973.html.

The US Embassy in Ulaanbaatar also has a website: http://mongolia.usembassy.gov/.

Visa Requirements Return to top

Mongolian Visas

Mongolia requires a valid passport for American visitors. No visa is required for Americans visiting for less than 90 days. However, certain registration requirements may apply. For updated registration requirements please inquire from the Mongolian Immigration, Naturalization and Foreign Citizens Agency (INFCA) in Ulaanbaatar (http://immigration.gov.mn/index.php). American visitors who fail to register and stay longer than 30 days may be stopped at departure, denied exit, and fined. Americans planning to work or study in Mongolia should apply for a visa at a Mongolian Embassy or Consulate overseas. Failure to do so may result in authorities denying registration, levying a fine, and requiring that the visitor leave the country. For current information on visa/registration requirements, contact the Embassy of Mongolia in Washington, D.C. at: (202) 333-7117 or http://www.mongolianembassy.us.

Please be advised the U.S. Embassy cannot assist you with visa applications or intercede on your behalf should you have a problem with a Mongolian visa.

Residency Permits

A foreign investor must present a request issued by the Foreign Investment Regulation and Registration Department (FIRRD) to the Immigration, Naturalization and Foreign Citizens Agency (INFCA). FIRRD issues such requests to approved foreign investors. Permits are generally issued within a couple of days and are valid for three months to one year. Individuals may renew temporary residency permits an unlimited number of times. Each renewal will re-validate the permit for a period of three months up to one year, as requested by the investor.

For more detailed information about residency permits, contact FIRRD directly at www.investmongolia.com.
Those seeking employment in Mongolia or foreign-owned enterprises, including NGOs, must apply to the Labor Coordination Agency. Those wishing to establish an NGO must first obtain a permit from the Ministry of Justice. After obtaining the required permits, all foreigners must then apply for residency permits at INFCA.

Travel Information

US citizens traveling to Mongolia via China should obtain a valid Chinese visa--even if the traveler is only transiting Beijing airport. If you transit Beijing twice (to and from Mongolia), you should obtain a double-entry Chinese visa.

U.S. Companies that require travel of foreign businesspersons to the United States should be advised that security options are handled via an interagency process. Visa applicants should go to the following links.

State Department Visa Website: http://travel.state.gov/visa/index.html

United States Visas.gov: http://www.unitedstatesvisas.gov/

U.S. Embassy in Ulaanbaatar: http://mongolia.usembassy.gov/index.html

Telecommunications

Mongolia has an evolving telecommunications system. In the capital of Ulaanbaatar the Internet is available and reliable if not as fast as businesses might need. Mongolia has reliable satellite, Wi-Fi, and fiber-optic linkages to the World Wide Web; however the last mile of connection for some publicly accessible systems, especially in rural Mongolia, remains through landlines and dial-up modems. Consequently, downloads to these sites may be slow and subject to interruption.

Mongolia has numerous ISPs and Internet cafes offering a full range of services. Most hotels have *business centers that* offer regular access to the Internet. A growing number of hotels offer in-room connectivity. We advise travelers to contact their hotel in advance of travel regarding this issue.

Wireless services have become common at private venues. Usually, these private venues offer the service to customers at no charge.

In the countryside computing remains a challenge. Most provincial capitals have several Internet cafes but some linkages are by land-line to Ulaanbaatar, which are subject to regular disruption. Firms requiring e-services in the field may have to make provision for some sort of satellite infrastructure.

Regarding phone service, Mongolia has followed a fairly regular pattern for Asia. Rather than upgrading its land-based system, Mongolia has encouraged the speedy development of cellular systems. Ulaanbaatar and most of its surrounding municipalities are linked by four existing private cellular service providers: Mobicom, Skytel, Unitel, and G-Mobile. These firms offer sales and service for handsets and other products related to their fields.

Cellular service in the countryside is available in all provincial capitals and in most county centers. Satellite-phone service is also available through Mobicom.

Transportation

Return to top

Business travelers can best enter Mongolia by plane (or train if time and comfort is less of an issue). Currently there are no direct flights from a US point of departure to Ulaanbaatar, Mongolia. One can fly from the US to Seoul/Inchon, Beijing, Tokyo, Berlin, or Moscow; and then take the last leg into Ulaanbaatar's Chinggis Khaan International Airport. Korean Airlines, Air China, Aeroflot, and Mongolian National Airlines (MIAT) maintain weekly flights. Summer schedules offer more flights than in winter, but still flights are limited. In summer seating may be in short supply during high season (June-September). We advise booking early in the summer.

During the spring (and sometimes in summer), severe storms may cause flight cancellations but more normally delays.

Domestic air service is available to most provincial capitals through MIAT, Eznis, and Hunnu Airlines.

The difficulty of in-country travel is directly related to how far one wishes to travel from Ulaanbaatar. There are generally no restrictions on in-country travel, except when within 25 kilometers (15 miles) of Mongolia's international borders with China and Russia. If traveling to these areas check with a local travel company regarding required permits.

Within the capital transport options abound. Mini-buses, buses, and electric trolleys are readily available. Taxis are best hired by calling ahead. While Mongolians often hail passing motorists and negotiate a price, we do not recommend Western visitors use this technique. We suggest that first time business travelers arrange for a car and driver with a local travel firm. Costs vary with type of car and driver, but cars ranging from US limousines to Russian Jeeps are available.

Traffic and road conditions in Ulaanbaatar have become progressively worse over the last few years; and so, travelers are advised to schedule their meetings and trips with no less than a half-hour margin.

In the countryside, travel requires a reliable, off-road vehicle and a skilled driver. Jeeps are also available for hire to more remote destinations. Most of Mongolia's road network is unpaved and travel is unpredictable. Ulaanbaatar has hotels with standard amenities, but few business hotels exist outside of the capital. In the countryside, there are ger camps (encampments of 15 to 40 traditional round felt tents). Each ger usually accommodates four persons. Most tourist camps have a restaurant and are usually equipped with toilets and showers with hot water.

Language

Return to top

Mongolian is the official language of Mongolia. All contracts and other legal documents must be in Mongolian if the business is done in this country. Translations of contracts, laws, regulations, etc., have no force in Mongolian courts, agencies, and other government offices.

English is the *de facto* language through which most foreign investors engage with their Mongolian counterparts. Russian, Japanese, German, Korean, and Chinese are also used.

Health Return to top

Medical facilities in Mongolia remain limited. Some western medicines are unavailable. Infectious diseases, such as bubonic plague and anthrax, are present at various times of the year. Serious medical problems requiring hospitalization and/or medical evacuation to the United States can cost thousands of dollars or more. Additionally, many medical transport companies will not transport people unless previous arrangements and agreements have been made. All visitors are recommended to have medical evacuation insurance. Doctors and hospitals often expect immediate payment for health services. For more information, please contact the U.S. Embassy in Ulaanbaatar or the Centers for Disease Control and Prevention's international travelers' hotline. Also check www.http://travel.state.gov for the latest U. S. State Department warnings and updates.

SOS operates a clinic in Ulaanbaatar. Individuals may purchase clinic 6 month to one year membership package; or can be treated on a fee for service basis without a membership. For more information contact:

SOS Medica Mongolia
UB International Clinic
4a Building, Big Ring Road, 15th Micro District,
7th Khoroo, Bayanzurkh District, Ulaanbaatar, Mongolia

Opening hours:
9am-6pm – Monday to Friday
After hours, weekends and public holidays – Emergency call-out service

Contact details:
Telephone: +976-11-464325 /26/27
Clinic Manager: +976-99096175
Fax: +976-11-454537

For after hour emergencies please phone:
+976-9911-0335 (English)
+976-9191-3122 (Mongolian)

E-mail: admin@sosmedica.mn , marketing@sosmedica.mn

Website: http://www.sosmedica.mn

Sanitation in some restaurants is inadequate. Stomach illnesses are frequent. Bottled water and other routine precautions are advisable. Information on vaccinations and other health precautions, such as safe food and water precautions and insect bite protection, may be obtained from the Centers for Disease Control and Prevention's hotline for international travelers at 1-877-FYI-TRIP (1-877-394-8747); fax 1-888-CDC-FAXX, (1-888-232-3299), or via the CDC's Internet site at http://www.cdc.gov/travel.

Local Time, Business Hours, and Holidays

Return to top

Mongolian Standard Time (MST) is thirteen (13) hours ahead of EST in the fall and winter months and 12 hours ahead in the spring and summer months. Mongolia does not use daylight-savings time in spring and fall. The standard 40 hour workweek is 0900-1800, Monday through Friday, with an hour for lunch. Holidays are as follows:

Mongolian and U. S. Official Holidays in 2013

January 1	Thursday	New Year's Day	US/Mon
January 21	Monday	Martin Luther King's Day	US
February 11-12	Mon-Tues	Lunar New Year	Mon
February 18	Monday	Presidents Day	US
March 8	Friday	International Women's Day	Mon
May 27	Monday	Memorial Day	US
May 31	Friday	Mother/Children's Day	Mon
July 4	Thursday	Independence Day	US
July 11-12	Thurs-Fri	Naadam Holiday	Mon
September 2	Monday	Labor Day	US
October 14	Monday	Columbus Day	US
November 11	Monday	Veterans Day	US
November 13	Thursday	Chinggis Khaan's Birthday	Mon
November 28	Thursday	Thanksgiving	US
December 25	Friday	Christmas Day	USA

*Note: Lunar New Year date may change according to the local astrologers' decision.

Temporary Entry of Materials and Personal Belongings

Return to top

The Mongolian National Chamber of Commerce and Industry can arrange for duty free import of display items for trade shows. For more information, contact the MNCCI in Ulaanbaatar:

Tel: 976-11-327176
Fax: 976-11-324620
Email: chamber@mongolchamber.mn
Web Site: www.mongolchamber.mn

MNCCI Building
Mahatma Gandhi street
1st khoroo, Khan-Uul district
Ulaanbaatar 17011

UB Post Box - 101011001

Web Resources Return to top

Mongolian Resources

Business Council of Mongolia: www.bcm.org

Embassy of Mongolia, Washington, DC: http://www.mongolianembassy.

Foreign Investment Regulation and Registration Department: http://www.investmongolia.com/

Government of Mongolia: http://www.pmis.gov.mn

Intellectual Property Office: http://www.ipom.mn/

Mineral Resources and Petroleum Authority of Mongolia: http://www.mram.mn

Mongol Chamber of Commerce and Industry: http://www.mongolchamber.mn/en/

Parliament of Mongolia: www.parl.gov.mn

U. S. Embassy Resources

Senior Commercial Specialist: richmondmd@state.gov

U.S. Embassy, Ulaanbaatar: http://mongolia.usembassy.gov

U.S. Department of Commerce: http://www.commerce.gov/

U.S. Export-Import Bank: http://www.exim.gov/

U.S. International Trade Administration: http://www.trade.gov/

U.S. Department of State: http://www.state.gov/

U.S. Overseas Private Investment Corporations: http://www.opic.gov

U.S. Trade and Development Agency: http://www.ustda.gov

Return to table of contents

Chapter 9: Contacts, Market Research and Trade Events

Contacts Return to top

A. Mongolian Government

Office of the Prime Minister
Tel: (976-11) 320-123
Fax: (976-11) 327-825
Website: http://www.pmis.gov.mn/pmis_eng/index.php

- Open government: http://www.open-government.mn/
- General Intelligence Agency: http://www.gia.gov.mn/
- Information Technology and Post Agency: http://itpta.gov.mn/
- Communications Regulatory Committee: http://www.crc.gov.mn

Office of the Deputy Prime Minister
Tel: (976-11) 260535, 976-11) 321956
Fax: (976-11) 321956
Website: www.pmis.gov.mn

- Intellectual Property Office: http://www.ipom.mn/
- Center of Standardization and Metrology: http://www.masm.gov.mn/
- Agency for Fair Competition and Consumer Protection: http://www.afccp.gov.mn/?lang=en
- State Professional Inspection Agency: http://www.inspection.gov.mn
- Procurement Policy Department: http://www.mof.gov.mn/page/?lan=en&c=3514
- National Emergency Management Agency: http://www.nema.gov.mn/

Cabinet Secretariat of Government of Mongolia
Tel: (976-11) 262408
Fax: (976-11) 310011
Website: http://cabinet.gov.mn/

Ministry of Culture, Sports, and Tourism
Tel: (976-11) 310-986
Fax: (976-11) 310-985
Web: www.mcst.gov.mn

Ministry of Construction and Urban Development
Website: http://www.mcud.gov.mn

- Administration of Land Affairs, Construction, Geodesy and Cartography: http://www.gazar.gov.mn

Ministry of Defense
Tel: (976-51) 261-718
Fax: (976-11) 322-904
Website: http://www.mod.gov.mn/index.php

- General Staff of the Mongolian Armed Forces: http://gsmaf.gov.mn/

Ministry of Economic Development
Tel: (976-51) 264-878
Fax: 976-51) 263-333
Web: http://www.med.gov.mn/mn/

Foreign Investment and Foreign Regulation Department: www.investmongolia.com

Ministry of Education and Science
Fax: (976-11) 323-158
Website: www.mecs.gov.mn/
E-mail: Info@mecs.gov.mn

Ministry of Energy
Tel: (976-11) 320-126
Fax: (976-11) 319-335
Website: http://www.energy.gov.mn/weblink

Ministry of Environment and Green Development
Tel: (976-51) 261-966
Fax: (976-511) 266-171
Website: http://www.mne.mn/

- Agency of Metrology and Environment Monitoring :http://www.namhem.pmis.gov.mn/

Ministry of Finance
Tel: (976-11) 260-247, 262-712
Fax: (976-11) 320247
Website: http://www.mof.gov.mn/welcome?lan=en

- Mongolian Tax Administration: http://en.mta.mn/pages/18
- General Customs Office: http://www.ecustoms.mn/

Ministry of Foreign Affairs
Tel: (976-51) 262-788
Fax: (976-11) 322-127
Website: http://www.mfa.gov.mn

Ministry of Health
Tel. (976-51) 263-913
Fax: (976-11) 320-916
Website: www.moh.mn

Ministry of Industry and Agriculture
Tel: (967-11) 262204
Fax: (976-11) 450258
Website: http://www.mofa.gov.mn

- State Property Committee: http://www.spc.gov.mn/eng/
- Agency for Veterinary and Animal Breeding: vetsermongolia@magicnet.mn

Ministry of Justice & Internal Affairs
Tel: +976-51-267-533
Fax: +976-51-267-533
Website: www.moj.gov.mn

- General Police Department: http://www.police.gov.mn/
- General Authority for Border Protection: http://bpo.gov.mn/
- General Authority for State Registration: http://www.citizenmongolia.com/
- General Authority for Implementing Court decisions: http://www.court-decision.gov.mn/
- National Archives: http://www.archives.gov.mn/
- Immigration Agency: www.immigration.gov.mn/

Ministry of Labor
Tel: (976-51) 261-418
Fax: (976-51) 261-516
Website: http://www.mol.gov.mn/

Ministry of Mining
Tel: (976-51) 263-506, 265-814
Fax: (976-11) 318-169
Website: http://www.mm.gov.mn/mn/

- Mineral Resources Authority: http://www.mram.gov.mn/index.php?lang=en
- Petroleum Authority - http://www.pam.gov.mn/

Ministry of Population Development and Social Welfare
Tel: (976-51) 264-791
Fax: (976-11) 328-634
Website: www.mpdsp.gov.mn

- General Authority for Social Insurance: http://www.ndaatgal.mn/
- General Office for Social Welfare Service: www.hun.gov.mn
- National Authority for Children: http://www.nac.gov.mn/

Ministry of Roads and Transportation
Tel: (976-11) 322-406; (976) 7011-2333
Fax: (976-11)312-315
Website: www.mrt.gov.mn

- Civil Aviation Authority: http://www.mcaa.gov.mn/index.php/page-en/10
- Railway Authority: http://www.mtz.mn/

B. Parliament of Mongolia: http://www.parliament.mn/

- National Audit Office: http://www.mnao.mn/mn
- National Statistical Office www.nso.mn
- Bank of Mongolia http://www.mongolbank.mn/
- Government Service Council http://csc.gov.mn/
- Financial Regulatory Commission http://www.frc.mn/
- National Human Right Commission http://www.mn-nhrc.org/
- General Election Commission http://www.gec.gov.mn/
- Constitutional Court http://www.conscourt.gov.mn/
- Independent Authority Against Corruption http://www.iaac.mn/

C. Office of the President of Mongolia: www.president.mn/eng/

- National Security Council of Mongolia: http://www.nsc.gov.mn/

D. CHAMBERS OF COMMERCE/TRADE ASSOCIATIONS

Business Council of Mongolia
Website: www.bcm.org

Mongolian National Chamber of Commerce and Industry
Website: www.mongolchamber.mn

Mongolian Employers Federation
Website: www.monef.mn

Mongolian Stock Exchange
Website: www.mse.mn

D. MARKET RESEARCH FIRMS

Business Council of Mongolia (BCM)
Mr. Jim Dwyer, Executive Director
Mr. I. Ser-Od, Vice Director
Tel/Fax: (976-11) 332345
Email: serod@bcmongolia.org
Website: www.bcmongolia.org

North America Mongolia Business Council, American Office (NAMBC)
Mr. Steve Saunders, President
Phone: (703) 549-8444
Fax: (703) 549-6526
Address: 1015 Duke Street, Alexandria, Virginia 22314, USA
Email: steve@nambc.org

Website: www.nambc.org

Sant Maral
Mr. I Sumati
Tel: (976) 9911-6367
Email: lsumati@magicnet.mn

U.S.-Mongolia Advisory Group, Inc.
Dr. Alicia Campi
6002 Ticonderoga Court
Burke, VA 22015
Phone/Fax in Virginia: 703-451-6456
Phone in New York City: 212-861-9460
E-mail: usmagcampi@aol.com

E. BANKS

Golomt Bank
Website: http://www.golomtbank.com

Khan Bank
Website: www.khanbank.com

Khas Bank
Website: http://www.xacbank.mn

Mongol Bank (Central Bank)
Website: www.mongolbank.mn

Trade and Development Bank
Website: www.tdbm.mn

F. US EMBASSY CONTACTS

The United States Embassy
Mr. Michael Richmond, Ph.D., Senior Commercial Specialist
E-mail: richmondmd@state.gov
Web Site: www.mongolia.usembassy.gov/

Mongolia Mailing Address:
U.S. Embassy in Mongolia
P.O. Box 341
Ulaanbaatar-14192
MONGOLIA

U.S. Mailing Address:
American Embassy Ulaanbaatar
Department of State

Washington, DC 20521-4410
Attention Senior Commercial Specialist Michael Richmond

G. Washington-Based USG Mongolia Contacts

Washington-Based USG Mongolia Contacts

Embassy of Mongolia 2833 M Street,
N.W. Washington, D.C. 20007 USA
Tel: (202) 333-7117
Fax: (202) 298-9227
Email: monemb@aol.com
Web Site: http://www.mongolianembassy.us

Office of U.S. Trade Representative
600 17th Street, NW
Washington, DC 20506

TPCC Trade Information Center
Tel: 800-USA-Trade

U.S. Department of Agriculture
International Trade Policy
Asia American Division
Foreign Agricultural Service Stop 1023
11th And Independence Ave., SW
Washington, DC 20250-1023
Tel: (202) 720-1289
Fax: (202) 690-1093

U.S. Department of Commerce
International Trade Administration
Mongolia Desk Officer Zhen Gong Cross
14th And Constitution Avenue
Washington, DC 20230
Tel: (202) 482-3583
Fax: (202) 482-1576

U.S. Department Of State
Office of China and Mongolia
Bureau of East Asia & Pacific Affairs
Room 4318, 2201 C Street, NW
Washington, DC 20520
Tel: (202) 647-6796
Fax: (202) 647-6820

U.S. Trade Development Agency
1000 Wilson Boulevard
Suite 1600
Arlington, Virginia 22209

Tel: 703/875-4357
Fax: 703/875-4009
Web site: www.tda.gov.

Market Research Return to top

To view market research reports produced by the U.S. Commercial Service please go to the following website: http://www.export.gov/mrktresearch/index.asp and click on Country and Industry Market Reports.

Please note that these reports are only available to U.S. citizens and U.S. companies. Registration to the site is required, and is free.

`Trade Events Return to top

Please click on the link below for information on upcoming trade events.

http://www.export.gov/tradeevents/index.asp

(Add link to trade events section of local buyusa.gov website here or just delete this text.)

Return to table of contents

Return to table of contents

Chapter 10: Guide to Our Services

The President's National Export Initiative aims to double exports over five years by marshaling Federal agencies to **prepare U.S. companies to export successfully**, **connect them with trade opportunities** and **support them once they do have exporting opportunities**.

The U.S. Commercial Service offers customized solutions to help U.S. exporters, particularly small and medium sized businesses, successfully expand exports to new markets. Our global network of trade specialists will work one-on-one with you through every step of the exporting process, helping you to:

- Target the best markets with our world-class research
- Promote your products and services to qualified buyers
- Meet the best distributors and agents for your products and services
- Overcome potential challenges or trade barriers
- Gain access to the full range of U.S. government trade promotion agencies and their services, including export training and potential trade financing sources

To learn more about the Federal Government's trade promotion resources for new and experienced exporters, please click on the following link: www.export.gov

For more information on the services the U.S. Commercial Service offers to U.S. exporters, please click on the following link: (Insert link to Products and Services section of local buyusa.gov website here.)

U.S. exporters seeking general export information/assistance or country-specific commercial information can also contact the **U.S. Department of Commerce's Trade Information Center** at **(800) USA-TRAD(E).**

Return to table of contents